

## **APPENDIX G: LETTERS TO THE AUTHORITY BOARD AND BOARD MEETING MATERIALS**

**DEPARTMENT OF TRANSPORTATION**

OFFICE OF THE DISTRICT 10 DIRECTOR

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*Making Conservation  
a California Way of Life.*

September 3, 2020

Tom Richards, Vice-Chair  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento, CA 95814

RE: Support for Central Valley Wye Final Supplemental EIR/EIS

Dear Honorable Vice-Chair Richards:

California Department of Transportation (Caltrans) District 10 strongly supports the Governor's Plan and California High Speed Rail Authority's (CHSRA) staff recommendations (2020 Draft Business Plan released February 12, 2020) to pursue a Merced-Fresno-Bakersfield High Speed Rail (HSR) interim operating segment with stops at Kings/Tulare and Madera to provide high-speed rail service to Californians at the earliest possible time. The approval of the Central Valley Wye Supplemental EIR/EIS is critical to the implementation of the Merced-Fresno-Bakersfield HSR Interim Operating Segment.

The Authority identified the State Route (SR) 152 (North) to Road 11 Wye Alternative as the Preferred Alternative because it would maximize regional transportation investments and minimize impacts on environmental and community resources. Additionally, the SR 152 (North) to Road 11 Wye Alternative would have lower capital costs than the other Central Valley Wye alternatives.

The Preferred Alternative achieves the HSR system's purpose and need while resulting in fewer impacts on both the natural environment and community resources than the other three alternatives. It also better meets other non-environmental criteria because of its proximity to existing transportation corridors. Both USACE and USEPA concurred that the CHSRA's Preferred Alternative is the preliminary least environmentally damaging practicable

Tom Richards, Vice-Chair  
September 3, 2020  
Page 2

alternative. The Preferred Alternative is the environmentally superior alternative that best meets environmental regulatory requirements and best minimizes impacts on the natural environment and community resources.

Caltrans requests that CHSRA continue to work with Madera County to resolve the issues raised in their comment letter on the Central Valley Wye Supplemental EIR/EIS.

We are very pleased to submit this letter of support for the approval of the Central Valley Wye Final Supplemental EIR/EIS.

Sincerely,

  
DENNIS T. AGAR  
District 10 Director (Interim)

c: Chad Edison, Chief Deputy Secretary, CalSTA  
Brian Kelly, Chief Executive Officer, CHSRA  
Brian Annis, Chief Financial Officer, CHSRA



James C. Sanchez  
Attorney at Law

E-mail: [jsanchez@lozanosmith.com](mailto:jsanchez@lozanosmith.com)

September 8, 2020

*Via Email [CentralValley.Wye@hsr.ca.gov](mailto:CentralValley.Wye@hsr.ca.gov)  
And U.S. Mail*

Merced to Fresno Section: Central Valley Wye Final Supplemental EIR/EIS  
California High-Speed Rail Authority  
770 L Street, Suite 620 MS-1  
Sacramento, CA 95814

Re: Merced to Fresno Section: Central Valley Wye Final Supplemental EIR/EIS Comments/  
Concerns For the High Speed Rail Authority Board Meeting of September 10, 2020

Dear High-Speed Rail Authority:

The City of Chowchilla previously submitted a comment letters dated October 28, 2019 & June 20, 2019 (see enclosed **Exhibit B**). The letters detailed a number of significant environmental effects that have been ignored or deficiently addressed.

Chowchilla is a unified and cohesive community with a rich agricultural history in the heart of the Central Valley. It is located in the center of the economically challenged southern San Joaquin Valley. Chowchilla has a large minority population, a low median income and among the highest unemployment in the State. The Final Supplemental EIR/EIS minimizes the unique and significant physical impact of the Project on Chowchilla. No other community in the Project will have track and trains impairing two sides of the community.

For example, the Final Supplemental EIR/EIS (Comment Response to Submission 247-201) noted that noise generated by train operations would be "significant and unavoidable". But minimized the true impacts by asserting that these impacts "...would not be significant at receptors near downtown Chowchilla." Chowchilla is a community made up of more than its downtown and the flawed rationalizations do not adequately represent the significant impacts of the Project on the whole of Chowchilla.

Similar concerns were raised about the impact of the Project on City economic development and its proposed industrial park (including visual and access impairment of the industrial park). City asked for funding assistance to address additional planning, infrastructure and proposed mitigation to the noted environmental impacts. In response (Comment Response to Submission 247-204), the Authority acknowledged the City's planning effort but deemed the concerns raised about diminished value of the park as speculative, but noted the funding assistance request and will consider the mitigation "...outside of the environmental review process." Under CEQA, a lead agency cannot simply provide vague promises of future mitigation to address noted environmental deficiencies of a Project.

Another example of inappropriate deferral of mitigation details is noted in (Comment Response 247-203) where the HSR will provide funding to facilitate Chowchilla's construction of

*Limited Liability Partnership*

7404 N. Spalding Avenue Fresno, California 93720-3370 Tel 559-431-5600 Fax 559-261-9366

infrastructure to connect Fairmead to the City sewer system. The funding assistance should be detailed and include both the capital and annual operation costs of the infrastructure.

We resubmit the numerous and significant environmental effects/impacts noted in our previous submission. We are disappointed that the current proposed Final Supplemental EIR/EIS chose to disregard or inappropriately minimize the noted environmental concerns. As a result of the proposed Project, Chowchilla and its adversely affected residents are uniquely and severely impacted by a significant degradation of environment, services and community. The proposed HSRA action seeks to parse out significant environmental concerns and inappropriately piecemeal the CEQA documents.

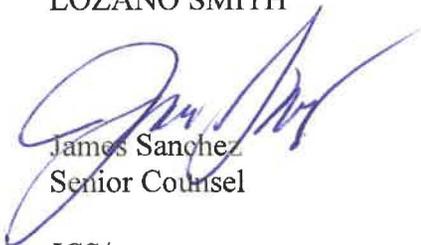
As our letter describes, we continue to work in good faith with the California High Speed Rail Authority, but request further consideration of the matters we've noted as significant to our local community and environment.

Beyond the standard lead agency environmental obligations owed by the Authority, the Authority has good faith contractual obligations owed to the City of Chowchilla as a result of our January 23, 2013 settlement agreement (see enclosed **Exhibit A**). We request that the Authority delay action on this matter and not adopt the proposed Final Supplemental EIR/EIS without meeting with Chowchilla officials and including mitigation measures to address those specific concerns we have raised.

Please contact us to work to resolve these matters before final approval decisions related to the Central Valley Wye.

Sincerely,

LOZANO SMITH



James Sanchez  
Senior Counsel

JCS/ay

Enclosures

cc: Rod Pruett, City Administrator  
Mark E. Hamilton, Community & Economic Development Director  
Dave Riviere, Chief of Police  
Mary Lerner, City Attorney  
Diane Kindermann Henderson  
Bob Delp  
Natalie Murphey

# **EXHIBIT A**

## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into as of January 23, 2013 ("Effective Date") by and between Plaintiff/Petitioner CITY OF CHOWCHILLA (the "City") and Defendant/Respondent CALIFORNIA HIGH SPEED RAIL AUTHORITY ("HSRA"). The City and HSRA are collectively referred to as the "Parties" and sometimes individually referred to as a "Party."

This Agreement memorializes the understanding of the Parties and is entered into by the Parties to fully resolve the following pending matter: *City of Chowchilla v. California High Speed Rail Authority* (Sacramento County Superior Court Case No. 34-2012-80001166) (filed June 1, 2012) (the "Chowchilla Lawsuit").

### RECITALS

A. On May 3, 2012, HSRA, through its Board of Directors and by means of a series of resolutions, certified pursuant to the California Environmental Quality Act (Public Resources Code § 21000 *et seq.*) ("CEQA") the Final Environmental Impact Report ("FEIR") and approved a proposed project known as the Merced to Fresno Section of the High Speed Train System (the "Approved MF Project"). The approval resolution did not include approval of high-speed train elements contained within the area ("Wye Area") depicted in the rectangular box shown in Figure 2 (attached hereto as Attachment A) of Exhibit A to approval Resolution 12-20, which area includes all of the City limits, but rather specified that high-speed train elements in this area shall be carried forward for further study and analysis in a further CEQA document such as but not limited to the pending San Jose to Merced EIR.

B. The first portion of the statewide system HSRA intends to construct is located generally between the Avenue 17/Burlington Northern Santa Fe railroad track intersection east of Madera and Kern County near Bakersfield ("Initial Construction Segment" or "ICS").

C. On May 3, 2012, the HSRA filed a Notice of Determination with the State Clearinghouse in the Governor's Office of Planning and Research.

D. On June 1, 2012, the City filed the Chowchilla Lawsuit, which consists of a Petition for Writ of Mandate and Complaint ("Petition") challenging HSRA's approval of the Approved MF Project under CEQA and alleging violations of the Bagley-Keene Open Meeting Act (California Government Code Section 11120, *et seq.*). The City requested under Public Resources Code Section 21167.6(a) that HSRA prepare the administrative record ("Record").

E. On June 1 and June 4, 2012, respectively, two other cases were filed in Sacramento Superior Court against the FEIR and Approved MF Project containing most of the same allegations and legal theories as the Chowchilla Lawsuit – case numbers 34-2012-80001165 and 34-2012-80001168 (“Related Lawsuits”).

F. By judicial order, the Chowchilla Lawsuit and the Related Lawsuits are consolidated in Department 29 for case management (including administrative record matters), briefing and trial purposes only. A hearing on the merits in the Chowchilla Lawsuit and Related Lawsuits is scheduled for April 19, 2013.

G. In 2012, HSRA completed and certified the Record and lodged it with Department 29. The Record is the same for the Chowchilla Lawsuit and the Related Lawsuits.

H. The Parties to this Agreement believe that their mutual interests will be best served if the Chowchilla Lawsuit is dismissed, per the terms of this Agreement.

#### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and/or covenants contained in this Agreement and any other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals and Definitions Incorporated. Each recital and definition set forth above is incorporated herein by reference and is made part of this Agreement.
2. No Admissions. All Parties understand and agree that nothing in this Agreement, or in the execution of this Agreement, shall constitute or be construed as an admission of wrongdoing by any Party or of any inadequacy or impropriety in connection with HSRA’s approval of the Approved MF Project.
3. Dismissal of Petition with Prejudice. Within ten (10) days after this Agreement is fully executed by all Parties, the City shall execute and file and serve a dismissal of the Chowchilla Lawsuit in its entirety with prejudice (the “Dismissal”). The Dismissal shall be in the exact form (except the addition of a signature by someone representing the City with requisite authority) as the Dismissal form attached hereto and incorporated herein as Attachment B, which form is acceptable to the Parties. HSRA agrees to waive any affirmative defenses based on the fact of the City’s dismissal of the Chowchilla Lawsuit in any future lawsuit filed by the City against any future CEQA document on the Wye Area related to its decision to remove the Wye Area from the Approved MF Project approved on May 3, 2012 via HSRA Resolution 12-20, as described in the FEIR certified by the HSRA Board in Resolution 12-19. The City reserves its rights as described in paragraph 6 below.

4. HSRA's Obligations Regarding Wye Area.

4.1. HSRA acknowledges that the City is concerned that high-speed rail elements within the Wye Area, once approved and constructed by HSRA and as operational, would be unacceptable to the City if the elements include an alignment along Avenue 24, such as that depicted in Attachment A. HSRA acknowledges that such an Avenue 24 alignment would traverse a large area recently approved by LAFCO for annexation and that it could have a negative economic impact on the City if it were chosen as the preferred high-speed rail alignment because of the City's plan for a large multi-use commercial, entertainment and industrial development in the annexation area, which could be negatively impeded by an Avenue 24 alignment. HSRA acknowledges that this development is very important to the City. HSRA will consider these factors when it determines whether an Avenue 24 alignment is feasible under CEQA.

4.2 HSRA acknowledges that the City is concerned that high-speed rail elements within the Wye Area, once approved and constructed by HSRA and as operational, would be unacceptable to the City if the elements include an alignment along the Union Pacific/State Route 99 corridor within the City, such as that depicted in Attachment A. HSRA acknowledges that the Union Pacific railroad tracks and State Route 99 already transect a near-center area of the City's limits, which impedes connectivity and cohesiveness. HSRA further acknowledges that its preliminary estimate of the cost of constructing high-speed rail infrastructure along a Union Pacific railroad/State Route 99 ("UPRR/SR99") alignment is almost half a billion dollars (\$.47 billion) more than the next most expensive non-UPRR/SR99 alignment within the Wye Area that HSRA currently is evaluating. HSRA will consider these factors when it determines whether a UPRR/SR99 alignment is feasible under CEQA. The attached map (at Attachment C) shows the Wye Area routes being recommended by HSRA staff to be carried forward for environmental evaluation. If the UPRR/SR99 alignment is selected and approved as the preferred alternative route, the HSRA will consult and work with the City in good faith to address the City's above issues and carry forth appropriate means to ameliorate those issues.

4.3 HSRA agrees to consider in good faith the City's concerns and potential issues set forth in subsections 4.1 and 4.2 above, as the City has expressed in more detail in various communications to HSRA and as the City may further express as HSRA's development of alternatives in the Wye Area evolves, as alternatives may be eliminated from further consideration, and in ultimately selecting an alignment within the Wye Area. HSRA will not select an alignment in the Wye area solely based upon the May 3, 2012 Final Environmental Impact Report ("FEIR") approved by the HSRA Board as Resolution 12-19.

4.4 HSRA will work with the City to draft and execute appropriate cooperative agreements to address issues such as, but not limited to, utility relocations, relocation assistance and the like.

5. Legal Fees and Other Costs.

5.1 HSRA agrees to pay the City \$300,000 related to the City's attorney fees and costs incurred in connection with filing and pursuing the Chowchilla Lawsuit. HSRA will make the payment after HSRA finalizes and certifies the CEQA document on the Wye Area and approves a Wye alignment and the statute of limitations for a CEQA lawsuit challenging that CEQA document has run. HSRA will not make the payment if HSRA approves a Wye Area alignment that does not include a UPRR/99 or Avenue 24 alignment within City limits (*i.e.*, if HSRA avoids making a decision that would be unacceptable to the City) and the City sues HSRA anyway.

5.2 HSRA shall not pursue recovery from the City of any costs incurred by HSRA in its preparation of the Record or otherwise associated with the preparation of the Record for the Chowchilla Lawsuit. By agreeing not to pursue recovery of such costs from the City, HSRA is not explicitly or implicitly waiving its rights to seek recovery from the petitioners and plaintiffs in the Related Lawsuits of the full amount of costs HSRA incurred in preparing the Record.

6. Reservation of Rights. Nothing in this Agreement, including the dismissal of the Chowchilla Lawsuit, shall affect the rights of the City in seeking to enforce or obtain a remedy for, or in connection with, any future approvals made by HSRA regarding the San Jose to Merced Section EIR or any EIR or other CEQA document that is the basis for a selection of alignments by HSRA in the Wye Area. HSRA waives any rights to claim in any such lawsuit that the City by entering the Agreement waived any arguments or claims regarding the San Jose to Merced Section EIR or any EIR or other CEQA document that is the basis for a selection of alignments in the Wye Area, except to the extent the City relies on such arguments or claims in seeking to enjoin or obtain a writ equivalent to an injunction stopping or suspending the ICS.

7. Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be given in writing by regular mail, overnight courier, facsimile, or as attachments to emails to:

If to HSRA:  
California High Speed Rail Authority  
Chief Counsel  
770 L Street, Suite 800  
Sacramento, CA 95814  
Phone: (916) 324-1541  
Fax: (916) 322-0827  
tfellenz@hsr.ca.gov

With a copy to:

James Andrew  
Deputy Attorney General  
1300 I Street  
P.O. Box 944255  
Sacramento, CA 94244  
Phone: (916) 323-1722  
Fax: (916) 327-2319  
Email: [james.andrew@doj.ca.gov](mailto:james.andrew@doj.ca.gov)

If to the City:

City of Chowchilla  
City Administrator  
130 S. Second Street  
Civic Center Plaza  
Chowchilla, CA 93610  
Phone: (559) 665-8615  
Fax: (559) 665-7418  
Email: [mlewis@ci.chowchilla.ca.us](mailto:mlewis@ci.chowchilla.ca.us)

With a copy to:

Thomas Ebersole  
Cota Cole LLP  
730 North I Street, Suite 204  
Madera, CA 93637  
Phone: (559) 675-9006  
Fax: (559) 675-9050  
Email: [tebersole@cotalawfirm.com](mailto:tebersole@cotalawfirm.com)

8. Representations and Warranties; General Provisions. Each of the Parties represents, warrants, and agrees as follows:

8.1 The descriptive headings and titles used in this Agreement are for convenience only and shall not affect the meaning of any provision of this Agreement.

8.2 Each Party to this Agreement has received independent legal advice from its attorneys with respect to the advisability of making the settlement provided for herein, and with respect to the advisability of executing this Agreement.

8.3 This Agreement contains all of the representations and the entire understanding and Agreement among the Parties with respect to the matters described in the Agreement. Correspondence, memoranda, and oral and written Agreements that

originated before the date of this Agreement are replaced in total by this Agreement unless otherwise expressly stated in this Agreement.

8.4 This Agreement may be modified or amended only by written agreement executed by all of the Parties.

8.5 Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties, any rights or benefits under or by reason of this Agreement. There are no third party beneficiaries of this Agreement.

8.6 In any litigation between the Parties regarding this Agreement, the prevailing party shall be entitled to recover, in addition to such other relief as may be granted, its reasonable costs and expenses, including reasonable attorneys' fees and court costs.

8.7 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one Agreement. One or more signatures on this Agreement may be executed and delivered by facsimile or by PDF or JPEG attachment to an email, and each such signature shall constitute an original and valid signature. This Agreement shall become effective immediately following execution by all of the Parties on the latest date appearing below.

8.8 If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the Parties shall amend this Agreement and/or take other action necessary to achieve the intent of this Agreement in a manner consistent with the ruling of the Court.

8.9 The individuals signing this Agreement on behalf of each Party represent and warrant that they have full authority and are duly authorized to do so on behalf of the Party they represent.

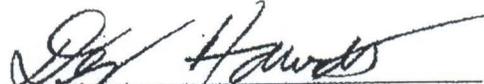
8.10 The Parties shall cooperate to ensure that the steps necessary to implement this Agreement are carried out. The Parties to this Agreement agree to execute any further documentation that may be required to carry out the purpose of this Agreement and perform all acts necessary to effectuate the provisions of this Agreement. If any dispute related to the terms of this agreement arise between or among the Parties, the Parties will first meet and discuss the dispute in good faith in an attempt to resolve it.

8.11 The Parties agree that specific performance is an appropriate remedy for enforcement of this Agreement.

9. Judgment. The Parties shall endeavor to have the terms of this Agreement incorporated into a judgment, but this Agreement is valid and binding even if a judgment cannot be obtained despite the best efforts of the Parties.

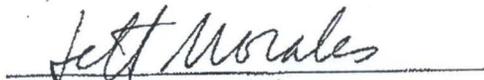
Dated: January 22, 2013

CITY OF CHOWCHILLA, a California  
Municipal Corporation

  
\_\_\_\_\_  
Mayor Dennis Haworth

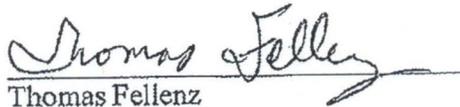
Dated: January 24, 2013

CALIFORNIA HIGH SPEED RAIL  
AUTHORITY, a California State Agency

  
\_\_\_\_\_  
CEO Jeff Morales

APPROVED AS TO FORM:

Dated: January 24, 2013

  
\_\_\_\_\_  
Thomas Fellenz  
Chief Counsel  
California High Speed Rail Authority

Dated: January 22, 2013

  
\_\_\_\_\_  
Thomas Ebersole  
City Attorney  
City of Chowchilla

# **EXHIBIT B**

James Sanchez  
Attorney at Law

E-mail: [jsanchez@lozanosmith.com](mailto:jsanchez@lozanosmith.com)

October 28, 2019

***Via Email [CentralValley.Wye@hsr.ca.gov](mailto:CentralValley.Wye@hsr.ca.gov)  
And U.S. Mail***

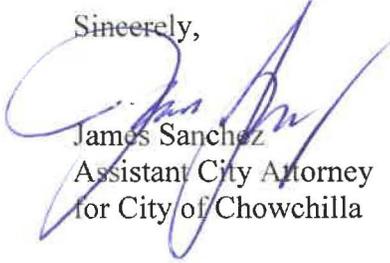
Merced to Fresno Section: Central Valley Wye NEPA Draft Supplemental EIR/EIS  
California High-Speed Rail Authority  
770 L Street, Suite 620 MS-1  
Sacramento, CA 95814

Re: Merced to Fresno Section: Central Valley Wye NEPA Draft Supplemental EIR/EIS  
Comments

Dear High-Speed Rail Authority:

We submit the enclosed comment letter dated October 28, 2019 on behalf of the City of Chowchilla. As our letter describes, we continue to work in good faith with the California High Speed Rail Authority, but request further consideration of the matters we've noted as significant to our local community and environment. Please contact us to work to resolve these matters before final approval decisions related to the Central Valley Wye.

Sincerely,



James Sanchez  
Assistant City Attorney  
for City of Chowchilla

JCS/ay

Enclosures

cc: Rod Pruett, City Administrator  
Mark E. Hamilton, Community & Economic Development Director  
Dave Riviere, Chief of Police  
Mary Lerner, City Attorney  
Diane Kindermann Henderson  
Bob Delp

*Limited Liability Partnership*

# CITY OF CHOWCHILLA CALIFORNIA

The seal of the City of Chowchilla, California, is circular. It features a central illustration of a bridge over a river, with the text "GATEWAY TO PROSPERITY" above it and "INCORPORATED FEB 7, 1923" below it. The outer ring of the seal contains the text "CITY OF CHOWCHILLA CALIFORNIA".

October 28, 2019

California High-Speed Rail Authority  
770 L Street, Suite 620 MS-1  
Sacramento, CA 95814

**Subject: Comments on the Central Valley Wye NEPA Draft Supplemental EIR/EIS**

Dear High-Speed Rail Authority:

The City of Chowchilla (City) offers the following comments on the Central Valley Wye Draft Supplement Environmental Impact Report/Environmental Impact Statement (SEIR/SEIS). These comments are in addition to, and incorporate by reference, previous comments by the City during the CEQA review period, including but not limited to the City's June 20, 2019 Comment Letter and all comments provided by the Wye Madera County Task Force and its member agencies on both the SEIR and SEIS:

## **A. Previous Litigation**

As you are aware the City initiated a lawsuit in June 2012 to ensure the Project considered and addressed issues critical to the City. The California High Speed Rail Authority (CHSRA) and the City agreed to resolve the lawsuit in January 2013 with CHSRA commitments related to future Project considerations. We attach the Settlement Agreement as Exhibit A to this letter.

## **B. Impact Avoidance and Minimization Features (IAMFs)**

1. Impact analyses assume implementation of IAMFs and therefore does not disclose environmental impacts that would occur if the IAMFs are not implemented. *Lotus et al. v. Department of Transportation et al.* (2014) 223 Cal. App 4th 645, directs that when a project incorporates measures to avoid or reduce environmental effects, an EIR must evaluate and disclose the effects in the absence of those measures. This is particularly relevant to the DSEIR in that the IAMFs do not provide sufficient commitments, detail, or performance standards to ensure they would be implemented or adequately reduce potential impacts, yet the DSEIR assumes they would be adequate and therefore fails to disclose impacts that would occur if the IAMFs are not more clearly defined and fully implemented.

*Nexus/Mitigation/Corrective Action: Further analysis and assurance prior to certification of the EIS is needed.*

### C. Mitigation Measures – General Comments

2. Many mitigation measures are brief phrases and do not provide substantive detail of implementation requirements or performance standards.

*Nexus/Mitigation/Corrective Action: Further analysis and inclusion of language that assures implementation, prior to certification of the SEIR/SEIS, is needed.*

3. The DSEIR is unclear regarding how the mitigation measures adopted for the 2012 Merced- Fresno segment relate to the mitigation measures identified in the Central Valley Wye EIR.

*Nexus/Mitigation/Corrective Action: The Wye is a component of the Merced to Fresno segment, yet the SEIS appears to separate the Wye in terms of impact assessment, breaking it out as a separate project and diminishing the full assessment of impacts.*

### D. Transportation

4. Existing road network access will be closed, and that traffic will be funneled to fewer access points, with increased and unanticipated loading at those points, with need for additional ROW acquisition, road widening, signalization, etc.

*Nexus/Mitigation/Corrective Action: The City Engineer shall be provided with the opportunity for review and acceptance of all construction and long-term decisions affecting road improvements made by CHSRA. Sufficient funding should also be provided by CHSRA and the Federal Railroad Administration (FRA) in compensation for City staff involvement supporting the project.*

5. The project, both during construction and long-term, will reduce the number of existing access ways into and out of the City's urban core, will restrict traffic flows, and cause increased response times for emergency responders. Slower response times will increase the potential for fatalities and loss of property. Slower calculated response times will erode the City's Insurance Service Office (ISO) rating, driving up municipal corporation costs and reducing the City's attractiveness to future developers and investors. This is not adequately addressed in the Draft SEIR/SEIS.

*Nexus/Mitigation/Corrective Action: Police and fire stations will need to be increased to meet the standards for emergency response time. The CHSRA and the FRA shall fund the cost of law enforcement and fire station facilities and vehicles. Additionally, consider additional roadway access cross-overs, intersections, and interchanges to ensure adequate emergency response times and a basic level of service.*

6. The project will result in redirected traffic flows to Robertson Blvd and SR 99.

*Nexus/Mitigation/Corrective Action: The effects on this interchange should be analyzed further, with mitigation to increase Robertson Blvd to at least 4 lanes with adequate pedestrian access as well. The increased traffic will also require Robertson Blvd to be signalized on both sides of SR 99.*

7. The City of Chowchilla's transportation infrastructure will be overburdened and degraded due to construction activities (i.e. detour and haul routes).

*Nexus/Mitigation/Corrective Action: Traffic control plans/measures, safety precautions, staffing, signs, to identify and employ the strategies designed to safely mitigate the impact of construction, maintenance, and incident management on roadways to maintain mobility and worker safety are needed. This includes both installing and removing traffic control measures, from start to stop of all construction activities. The City Engineer shall be provided with the opportunity for review and acceptance of all construction and long-term decisions affecting road improvements made by CHSRA. Sufficient funding should also be provided by CHSRA and the FRA in compensation for City staff involvement supporting the project.*

8. The project's proposed at-grade crossings on City roads conflicts with the City of Chowchilla General Plan.

*Nexus/Mitigation/Corrective Action: Analysis of proposed SR 152 at-grade crossings for City roads with respect to the General Plan, and Freeway agreements with Caltrans for SR 152 is needed. These prior plans and agreements must be fully recognized, honored and compensated. CHSRA and HSR must pay for the General Plan to be updated, and not simply updated to conform to the rail system imposed on the City, but compensated for a full General Plan Update and related California Environmental Quality Act (CEQA) Environmental Review including all elements of the City's 2040 General Plan that would be impacted by the operation of a High Speed Rail Train system including: Land Use, Circulation, Open Space, Public Facilities, Public Safety, Noise, and Housing Elements to ensure to ensure the City of Chowchilla is better able to address the impacts and assist moving forward as the trains begin operation.*

9. Identify specific phasing for construction of segments/intersections to minimize concurrent construction and cumulative traffic impacts associated with interchange and/or grade separation structure construction; and avoid starting construction without having all ROW and/or utility clearance issues resolved to minimize potential for construction delays once started.

*Nexus/Mitigation/Corrective Action: The phasing schedule shall include the opportunity for the City to review and accept the terms proposed by CHSRA. Do not commence construction without having all ROW and/or utility clearance issues resolved, with concurrence from the City Engineer.*

10. The City should be provided the opportunity to review and approve/concur with construction impact analyses, mitigation requirements, facility design, and construction monitoring of HSR-related construction or reconstruction of City roads and other infrastructure and be subject to Chowchilla Department of Public Works encroachment permits. CHSRA/FRA and all its contractors should be required to fully comply with conditions of local agency permits and this provision should be included in any contracts CHSRA enters with any contractor who is designing/constructing HSR-related facilities. If not in existing contracts for facilities in Chowchilla, the provision should be added.

*Nexus/Mitigation/Corrective Action: The schedule shall include the opportunity for the City to review and accept the terms proposed by CHSRA/FRA.*

11. As part of the project construction and the significant impacts of permanent road closures resulting from HSR facilities, there should be designed and constructed a full access interchange at SR 152 and SR 99 providing full access in all directions.

*Nexus/Mitigation/Corrective Action: Full access interchange including the purchase of land for right of way at SR 99 and SR 152 because HSR impacts access at numerous locations elsewhere in the City (i.e., access from SR 99 to SR 152 west and SR 152 to SR 99 north).*

12. Road closures and route modifications analyses considered “representative” roadway segments, but should evaluate ALL affected routes, including Avenue 25 which is a main agricultural thoroughfare into the City.

*Nexus/Mitigation/Corrective Action: Avenues 24 & 25 are main thoroughfares into and out of the City. Avenues 24 and 25 are considered a future collector roadways within the 2040 General Plan and as such should be included within the traffic evaluation and able to traverse through the HSR Rail Line with an undercrossing. Avenue 25 shall be included in a traffic evaluation, needs identified, and necessary improvements funded.*

13. Establish mechanism to minimize construction-related traffic effects (detours, closures) through construction scheduling and phasing; and

*Nexus/Mitigation/Corrective Action: Traffic control plans required throughout the entire length of the construction phase of the Wye. Affected agencies shall have the opportunity to review and approve of construction traffic management plans.*

14. It has been observed that once construction contractors begin their work, accountability for compliance with mitigation requirements is challenging.

*Nexus/Mitigation/Corrective Action: Mechanisms must be established now to ensure construction contractors are accountable to CHSRA, FRA and the City for adherence to construction/traffic management plans and mitigation requirements. The City's Public Works Director and City Engineer must be allowed to provide oversight and be compensated by CHSRA and FRA with a reasonable budget commensurate with his/her time expended.*

15. The permanent loss of four existing access points into the City's south side, and loss of visibility into Chowchilla and the industrial park from SR 152, which will be substantially diminished by the proposed rail line atop an 8-foot high berm, will have a permanent detrimental impact on present and planned circulation. Additionally, traffic eastbound on SR 152 that presently exits SR 152 and enters the City northbound on Road 17 ½ will be shunted southbound on SR 99, away from Chowchilla, since there is no northbound ramp onto SR 99.

*Nexus/Mitigation/Corrective Action: CHSRA and FRA should consider providing for a full interchange at SR 152 and Road 17 ½, and construction of a frontage road parallel and north of the HSR alignment that would connect Road 16, Road 17, Road 17 ½, and Road 18, and between Robertson Blvd and Road 15. Due to the HSR Rail line traversing along the northern boundary of the current Highway 152 corridor and severing all four (4) access points into the City's*

*industrial area, the CHSRA should consider upgrading the Road 17 ½ roadway overcrossing into an all access interchange with Highway 152 to ensure the accessibility into the industrial area is not severely compromised and the value is not fully diminished.*

*Nexus/Mitigation/Corrective Action:* *CHSRA and FRA should consider providing a northbound access ramp from eastbound Highway 152 to northbound Highway 99. The addition of this access ramp combined with the proposed High Speed Rail line will not only reduce travel times it will also improve the area's circulation and reduce the number of semi-trucks idling within the City of Chowchilla. The proposed access ramp from Highway 152 to Highway also has the potential to reduce of greenhouse gases from carbon emissions from Semi-trucks Trucks currently utilizing the Highway 233 corridor. The installation of a northbound ramp completing this connection would assist the City of Chowchilla with ensuring the future economic development success of the City's Industrial area. With the installation of this connection, goods produced within the Central Valley would have easier access to various northern connections along Highway 99. With the installation of this northbound ramp, it could be assumed there would be a reduction in greenhouse gasses, vehicle miles traveled, and idling times of semi-trucks that are currently required to move their locally produced products through the City of Chowchilla.*

16. Restore and improve existing local roads to mitigate construction impacts and to accommodate increased use due to closure of other roads. The SEIR/SEIS has not addressed the impacts of construction material hauling and other construction upon rural City roads. Many existing roads are in poor condition and the addition of material hauling vehicles and other construction equipment may significantly deteriorate or destroy them.

*Nexus/Mitigation/Corrective Action:* *The City's entire road network must be upgraded to handle the increase in material hauling. Mitigation must include restoration of roadways back to original condition damaged by construction activities and vehicles, and improvements as needed for closure of other roads as a result of said construction activities.*

## **E. Air Quality and Climate Change**

17. Particulate matter generated by trains moving at 220 MPH needs to be discussed and appropriately mitigated. Road closures and very large overcrossings in industrial areas. These large overcrossings and raised track will have impacts upon climatic conditions (temperature and wind patterns). The document does not appear to sufficiently evaluate health effects of criteria air pollutants as required per Sierra Club vs. Fresno County (CA Supreme Court, 2018). Appendix C.12-3 (Children Health Risk) oversimplifies project benefits without discussion of air quality impacts at specific locations due to road system modifications.

*Nexus/Mitigation/Corrective Action:* *Mitigation measures should be coordinated with local landowners and City officials, with delineation of specific areas that will be impacted and specificity on type and degree of impacts. Ensure that the HSR does not adversely affect the region's ability to comply with Federal Clean Air Act "Transportation Conformity" requirements.*

## **F. Noise and Vibration**

18. Effects of decelerating and accelerating trains on the south and west sides of Chowchilla have not been fully addressed. It is noted that the CHSRA and FRA will work with affected communities to develop performance criteria for noise mitigation and to also develop design guidelines. Such efforts may be helpful after the fact but push off formulating mitigation to a future unknown time, and additionally impose such mitigation on the City and its residents rather than on the source of the noise and vibration – the HSR Wye project. This must be resolved to the satisfaction of the community prior to certifying the Final SEIR/SEIS. The long-term effects of vibration and electrolysis to pipelines and agricultural and municipal wells needs to be addressed and disclosed, and adequately mitigated. There will be a problem for those impacted landowners to acquire operational financing to deal with the long-terms effect once HSR is ongoing and effects become apparent.

*Nexus/Mitigation/Corrective Action: CHSRA and FRA must work with the City of Chowchilla to develop performance criteria and design guidelines for noise and vibration mitigation based on known standards at this time, prior to certification of the SEIR/SEIS, update those measures and guidelines based on any ongoing, interim, and/or long term impacts, and provide commensurate mitigation to the community*

## **G. Environmental Justice**

19. The Wye project imposes an enormously negative and disproportionate degree of impact on the City of Chowchilla, its community and its people. Chowchilla is in the center of the State's largest economically disadvantaged region, the Southern San Joaquin Valley. Chowchilla has a high minority demographic, a low median household income, and among the highest unemployment rates in the State – twice the State and national averages – and is deemed a "Very High Unemployment Area." No other community in the State will have HSR track and trains wrapping it on two sides. No other community will be enclosed in such a manner. HSR, while positive for many people of the State in many ways, is not a benefit to Chowchilla, but intensely damaging to our infrastructure, our safety, our plans, our future, and our quality of life. Whether running east-west or north-south, every train will pass through our City, and pass it by. There will be no station here, but there will be the constant drone of engines winding-down and spooling-up, and the hum and strain of steel wheels on rail, decelerating and accelerating around the curves of a mere intersection of a massive rail project that Chowchilla will become, carrying riders who can afford it, between the great population centers of California. The long-term economic impact on Chowchilla is unimaginable, and certainly the Draft SEIR/SEIS has made little effort to assess it.

*Nexus/Mitigation/Corrective Action: The City requests that as a matter of mitigation and of justice, the future Heavy Maintenance Facility (HMF) be located in Madera County, consistent with the City's previous requests and resolutions, to assist in partially offsetting this impact by providing employment and business opportunity. The criteria for siting must not be based strictly on operational needs, but on the needs of people, people who should be served by infrastructure rather than be victims of it. CHSRA and FRA should provide a dedicated bus or trolley service*

*from either the proposed Merced station or Fresno station to Chowchilla and all its businesses and events.*

## **H. Public Utilities, Services, Safety and Energy**

20. The City of Chowchilla wastewater treatment plant (WWTP) is nearing capacity, and the General Plan calls for a second WWTP to be constructed west of the City along the north side of SR 152. The City is presently cooperating with the California Water Resources Control Board's request that the City provide wastewater treatment to the Community of Fairmead, also, which at present is at risk of contaminating the groundwater supply. The new trunk line from Fairmead will absorb a substantial portion of the City's remaining capacity. However, the proposed Wye alignment runs through the proposed new WWTP site as designated on the General Plan Land Use Diagram. In addition to conflicting with the adopted General Plan, the City would not expect to find an alternative WWTP site easily, nor to acquire it without a fight given that all other possible locations are presently designated and zoned for income-producing uses.

*Nexus/Mitigation/Corrective Action: The City will need CHSRA and FRA to acquire and construct the new WWTP in a suitable location identified by the City.*

21. The Fairmead sewer trunk line will be constructed along the east side of SR99 from the Community of Fairmead north to Avenue 24. If construction of the HSR line precedes construction on the Fairmead sewer line, a sleeve beneath the HSR line will need to be provided for the sewer line, since we expect that CHSRA will not allow excavation beneath the rail line. A second sleeve will also be needed in the event of failure of the sewer line at or near the rail line.

*Nexus/Mitigation/Corrective Action: The City needs assurance/confirmation from CHSRA that the sewer lines can be excavated when needed or that sleeves will be provided for said sewer lines. A second sleeve will also be needed in case of sewer line failure. The City would ask that a 30 – 40 foot wide (extending the full width of the CHSRA project area) Public Utility Easement (P.U.E.) be dedicated to the City at all points along the High Speed Rail line where a roadway access point are being proposed to be removed. This is necessary to ensure the City will be able to extend vital City Infrastructure to existing land located within the City for future projects.*

22. The City of Chowchilla's planned industrial area was recently designated an Opportunity Zone through the federal Tax Cuts and Jobs Act of 2017. The City subsequently invested further in the industrial area by conducting a public process to visualize and develop the industrial area, culminating in the Chowchilla Industrial Specific Plan adopted by the City Council. Recruitment of private developers and industries is underway to invest in the City and fund the industrial park's infrastructure. Permanent restricted access along the south side of the City caused by the HSR alignment's 8-foot high raised berm, in effect a wall, and permanent closures of existing roads along SR 152, will diminish the visibility to, and attractiveness of, the City's industrial park to investors, and stagnate development of needed infrastructure that would otherwise be built out by developers. Developers will question the ability to bring materials into the city, and get products out, with ease and timeliness. It is a perception, and negative perception kills projects and economic

development. The City is being expected to give up a lot of access; these access points will never come back, and there will never be new ones. The rail line's raised berm will be a permanent physical and visual barrier. The impacts will be significant and permanent. ***This is our only opportunity to address this significant impairment to our future.***

*Nexus/Mitigation/Corrective Action: ROW acquisition, and construction of water and sewer trunk lines and streets, consistent with the City's accepted Industrial Park Specific Plan, must be funded by CHSRA and FRA. The proposed HSR Rail Line as proposed will have an impact to the existing infrastructure currently located with the community, City want to ensure that CHSRA will fairly compensate the City for any impacts to the City at-grade are underground infrastructure components and any and all improvement shall be required to extend to the furthest reasonable juncture even with the most reasonable juncture extends beyond the project site area. Additionally, if the CHSRA intends to purchase the City's future waste water treatment facility, CHSRA will fairly compensate the City with either or a combination of financial and in-kind improvements made to the City's current waste-water treatment facility.*

23. In the event of an emergency related to HSR, the Chowchilla Fire and Police Departments will provide rescue, extraction, and fire suppression services inside and outside the City. The Chowchilla Fire Department does not own apparatus capable of reaching elevated track and cars in an emergency. A ladder truck will be needed. If HSR, the only bullet train in the country, should become a target of terrorism, Chowchilla Police will respond, will plan for such an event, and must be adequately provisioned to do so. This scenario remains to be addressed. Assurances must be given to the City now that the resources to meet its emergency response obligations to come to the assistance of CHSRA passengers and property will be in place.

*Nexus/Mitigation/Corrective Action: City of Chowchilla police and fire facilities and equipment will need to be increased to meet the standards for emergency response time. The CHSRA and FRA must fund apparatus and staff sufficient to provide standard emergency services to the HSR.*

24. There is currently one fire station in Chowchilla, located north of the downtown core. A fire station is planned for the Industrial Park and will be needed south of Berenda Slough within Planning Subarea 8 (Chowchilla General Plan). This fire station will be needed with development of the HSR line in order to achieve timely response to emergencies on or near the HSR and must be funded by CHSRA and FRA. CHSRA and FRA must ensure that this safety need will not be left unmet, that it will be fully accounted for through an agreement with the City before the Final SEIR/SEIS is certified.

*Nexus/Mitigation/Corrective Action: A new fire station provided by CHSRA and FRA with appropriate apparatus will be needed to meet the standards for emergency response time.*

25. The City's drainage master plan and the Chowchilla General Plan call for regional drainage basins to collect storm water. Chowchilla is in a low-lying area with active flowing sloughs inside the City that pose flood hazards.

*Nexus/Mitigation/Corrective Action: The loss of open and available lands along the south and west sides of the city as a result of the Wye alignment that would otherwise be suitable for such basins*

*should be compensated by CHSRA and FRA with acquisition and construction of appropriately located and sized basins.*

26. The Draft SEIR/SEIS acknowledges impacts to surface hydrology and to the 100-year floodplain. The Wye configuration, with rail on raised berm along the south and west sides of the City, may have the effect of acting as a dam in the event of flooding from upslope – east and northeast- along the two sloughs. This potential safety issue should be addressed.

*Nexus/Mitigation/Corrective Action: The potential for flooding related to both Berenda Slough and the Ash Slough, and pooling within the City as a result of the HSR's raised berms, should be fully addressed and mitigation provided.*

## **I. Aesthetics/Visual**

27. The Draft SEIR description diminishes the level of visual impact by stating that the CHSRA's preferred Wye alignment isn't as bad as one of the other alignment options that Chowchilla doesn't want. The proposed elevated rail alignment along the north side of SR 152 will have aesthetic and economic impacts on Chowchilla that need further attention than is provided for in the Draft SEIR/SEIS. Views of Chowchilla from SR 152 will literally be blocked by the elevated berm and rail line, which will suppress interest, commerce and development in Chowchilla. The City's urban core and tree line, and the new industrial park, will no longer be visible from SR 152, which will effectively truncate the City's potential for attracting investors. Visibility is crucial.

*Nexus/Mitigation/Corrective Action: Extensive landscaping along the berm, within the HSR ROW, as it passes through the city, is needed to offset this negative impact and restore a sense of place to the City.*

28. Provide high quality, high visibility signage at Chowchilla's "Gateways," which are those roads that will not be permanently closed – Robertson Blvd at SR152 and Road 16 at SR152, the requested Road 17 ½ interchange, as well as at Avenue 24 at SR99, to include arches reminiscent of the City's historical entry arch, with City approval of final design and funding by HSR.

*Nexus/Mitigation/Corrective Action: The City request that CHSRA fund the design and construction of high visibility signage with the review and approval of the City of Chowchilla. The signs shall be decorative and reflective of the community's rich history and shall include the language of "Welcome to the City of Chowchilla," with the City of Chowchilla granted ownership of said signage for future maintenance and improvements.*

29. It can be expected that there will be physical deterioration of areas underneath elevated guideways and alongside at-grade track, including vandalism, graffiti, and blighting. There must be specific programs identified for easements and parks, with architecturally attractive features built into the rail infrastructure, with maintenance and operations to be the responsibility of the CHSRA, and park and ride lots identified with maintenance to be the responsibility of the CHSRA.

*Nexus/Mitigation/Corrective Action: Alignment that parallels SR 152 including underpass (es) should be architecturally pleasing and well-lighted to visitors for both the industrial park as well as the City, with the ROW maintenance program subject to review and acceptance by the City.*

30. The loss of our way of life, the loss of generational legacy, and deterioration of community cohesiveness – all must be recognized, assessed and quantified as much as possible, and mitigated. The Draft SEIR/SEIS does not presently address this.

*Nexus/Mitigation/Corrective Action: Without going into detail of our city's colorful history, the people that live here, and why they call Chowchilla their home, the construction of a wall and rail line along two sides of our city and state highway on the third will have a profound impact on that. Compensation would be difficult to measure; and, as a result, difficult to mitigate. A commitment is needed so that the City can work with CHSRA and FRA to further address this issue of profound importance to our community.*

## **J. Biological Resources**

31. Ensure that funding or direct habitat conservation provisions are provided by CHSRA and FRA for any future roadway or other public facilities that may need to be constructed or reconstructed by a public agency as a result of the HSR.

*Nexus/Mitigation/Corrective Action: Ensure that funding or direct habitat conservation provisions are provided by CHSRA and FRA for the impact of new HSR construction and associated activities.*

## **K. Cumulative Projects Analysis**

32. Table 2-2 should include Chowchilla's Sessions Tentative Subdivision Map, 200 SFR lots that was approved in April 2019. The Fox Hills Community Plan in Merced County is no longer a factor, it has been abandoned for ten years. This may also be the case for the Villages of Laguna San Luis.

*Nexus/Mitigation/Corrective Action: These projects should be reviewed for consideration in the cumulative analyses.*

## **L. Alternatives Evaluation**

33. The City requests CHSRA and the FRA return to the Ave 21 & Road 11 alignment option, and select this as the preferred, and environmentally superior, project alternative.

*Nexus/Mitigation/Corrective Action: Consider relocating the alignment to Ave 21 and Road 11, this modification would reduce the future impacts to the City, reduce the costs of realigning Highway 152, increase the distance of the HSR WYE from the City of Chowchilla from 2.2 miles to 3.5 miles, and would reduce the impacts to the community of Fairmead. This change would exponentially reduce the fiscal costs of the project and lessen the impacts to two disadvantaged communities (City of Chowchilla and Fairmead).*

34. Alternatives identification are reasonable for developing the preferred alternative/proposed project; however, the Draft SEIR/SEIS does not comply with CEQA requirement to consider alternatives that would reduce impacts of the proposed project. Alternatives that would avoid or reduce significant impacts of the proposed project are not identified or evaluated in compliance with CEQA and NEPA. The alternatives evaluation process described in the Draft SEIR/SEIS describes the method for selecting the preferred alternative/proposed project; however, a CEQA identification and evaluation of alternatives to the proposed project that would avoid or reduce significant environmental effects of the proposed project was not presented. The CEQA alternatives analysis, therefore, must be done after the proposed project is identified and not as part of the process of selecting the proposed project.

*Nexus/Mitigation/Corrective Action: We request that the CEQA alternatives analysis, therefore, be done after the proposed project is identified and not as part of the process of selecting the proposed project.*

#### **M. Land Use**

35. The HSR will effectively box the city into a triangle with State-owned linear infrastructure, a containment not addressed by the City's General Plan. We will need help from the State to ensure that Chowchilla is not cut-off from our residents, agricultural economy, commerce, and our neighboring communities.

*Nexus/Mitigation/Corrective Action: Requires adequate access from SR 99, Avenue 25, Road 13 or future planned eastside extension of Wye, southern access from SR 152. The elevated Wye and SR 99 will act as walls encircling the City, cutting it off from visibility on the south side and access on the west side unless additional access is provided. CHSRA should conduct a traffic study to identify the detrimental impact of access to the city because of the Wye and provide improved access as necessary access (i.e., interchanges, below grade crossings, other means). Adequate access includes a full interchange Road 17-1/2 and SR 152 instead of just the limited flyover access. Caltrans has already identified and dedicated land for a full interchange with on/off ramps at this location. Adequate access for the city's industrial park and its associated businesses is critical for its success.*

36. The CHSRA and FRA should provide funding to the City to update the General Plan and the Industrial Specific Plan, the water, sewer, and drainage master plans, and other local planning documents as necessary due to HSR's impacts on existing and planned land uses, effects on land use compatibility, parcel acquisition and division, effects on the established community, and effects on transportation system (existing and planned roads and bike/pedestrian facilities).

*Nexus/Mitigation/Corrective Action: The City's General Plan, the Chowchilla Industrial Park Specific Plan, and the water, sewer, and drainage master plans will be impacted by the Wye Alignment that had not been previously included in the updates to each of these plans. The CHSRA and FRA must fund the cost for plan updates and new plans.*

37. Fairmead Elementary School will be displaced, and it remains unclear how this will be

sufficiently mitigated.

*Nexus/Mitigation/Corrective Action: Fairmead ES is in the Chowchilla School District. Distance from residences to the school will increase due to impacts of the Wye. There is likely a need for increased bus service or a new elementary school to replace it. Since the Fairmead Elementary School serves the 5<sup>th</sup> and 6<sup>th</sup> graders of the City of Chowchilla, the impact to this school creates an impact to the residents within the City of Chowchilla whom have children in attendance at this school location. The City of Chowchilla requests that the CHSRA shall coordinate with the City to ensure the future location of this school, if relocated to an alternate location, not place an unjust burden accessing the new school location.*

38. The Draft SEIRSEIS greatly underestimates the preferred alignment's effects on land use. The assessment does not account for our planned Industrial Park, which we have invested in but is not built-out and will likely not ever be built-out with placement of the HSR within it. The rail alignment will cause valuable industrial land to be lost from the south end of the City's industrial park. Once the HSR is constructed and in-place, it will be extremely unlikely that LAFCO will allow the City any annexations beyond the rail line, as it will be seen as the most significant "natural boundary." The City will be effectively divided and not allowed to grow south or west. There will be no new replacement area for the industrial land lost to the HSR and to the HSR's negative impact on economic development.

*Nexus/Mitigation/Corrective Action: To help offset this, the CHSRA and FRA should relocate the Chowchilla Municipal Airport to a suitable site west of the City, allowing the existing airport site to become available for industrial development. Locating the Airport beyond the HSR line, will free-up the present airport site for the lost industrial land and will help mitigate this impact. Additionally, the CHSRA shall assist the City with completing the necessary CEQAS and NEPA environmental Reviews for the Industrial park, this assistance will allow the City the ability to apply for future Federal and State agency grants which would assist in mitigating the impacts to the Industrial and Airport Areas.*

39. The SEIR/SEIS states that there will be no impact on future development of recreational trail corridors. Chowchilla has planned for a broad bike trail and pedestrian path along the south side of Berenda Slough within the Industrial Park, the Berenda Slough Trail, with a 50-foot native landscaped corridor, to connect with the City's Bikeway System. This will not be built if the Industrial Park is not built, and the HSR Wye alignment within the Industrial Park will likely kill investor-developer interest here.

*Nexus/Mitigation/Corrective Action: The Wye as it parallels SR 152 will impact Class III Bikeways along SR 152, Road 17-1/2 and Road 16, cutting bicyclists off from access to southern Madera County unless mitigation measures include adequate rights of way parallel to SR 152 and below grade access (i.e., tunnels with lighting) as needed.*

## **N. Socioeconomics**

40. HSR will have adverse effects on employment and the community.

*Nexus/Mitigation/Corrective Action: Provide compensation, as well as work force training, for economic and community effects of HSR in the City.*

41. Provide compensation for loss of property tax revenue from properties acquired for HSR facilities or otherwise affected by HSR (e.g., payments in lieu of taxes).

*Nexus/Mitigation/Corrective Action: Properties will be lost as a result of the construction of HSR. The Chowchilla Water District operates under the rules as set forth by the California State Water Code. Tax revenue lost includes the following.*

***General Assessment** results in an assessment of \$24 per acre for agricultural property and an average assessment of \$37 (depending on the parcel size) for individual parcels in the City of Chowchilla. The District collects about \$1.9 million dollars in assessments each year. The assessment revenue is used to pay for water purchased for groundwater recharge and the operation and maintenance costs of the District.*

***Supplemental Assessment** of \$16 per acre for all agricultural property larger than five acres was instituted on April 29, 2005, following its approval by the landowners in an election held by the District (Prop 218 election). The District collects about \$1.2 million dollars in supplemental assessments each year.*

***Capital Repayment Assessment.** The Chowchilla Water District Board of Directors instituted a \$22 per acre Capital Repayment Assessment on April 12, 2014, following its approval by the landowners in an election held by the District (Prop 218 election). Capital Repayment Assessment of \$22 per assessed acre applies to all agricultural land parcels of five acres or more eligible to receive water from the District. The capital repayment assessment will continue for a period of 14 years, or through 2025, or until such earlier date that the Board in its discretion deems that it is no longer necessary.*

*We ask that these very real impacts be identified, and that appropriate mitigation provided in the Final SEIR/SEIS.*

***Source:** <https://www.cwdwater.com/index.php/8-faqs?start=10>. Chowchilla Water District*

42. With the junction of the San Jose-Merced and Merced-Fresno segments inside Chowchilla city limits, it is reasonable to expect that the HMF facility would be located, and should be located, in Madera County near the Wye. Locating the Wye in Chowchilla results in the HSR having greater and disproportionate impacts in Chowchilla due to the extra track miles needed to accommodate the Wye intersection of the San Jose-Merced and Merced-Fresno segments.

*Nexus/Mitigation/Corrective Action: Select the Heavy Maintenance Facility (HMF), and light maintenance and ROW, in Madera County, consistent with those resolutions previously provided to CHSRA. Locate the HMF in Madera County so as to provide revenues/jobs that will contribute to offsetting adverse effects of the Wye rail line's catastrophically disruptive impacts on the area. The CHSRA and FRA should coordinate with the Wye Madera County Task Force for selection of an HMF site.*

43. The HSR Wye project's removal of access points into the City on the south will have the cumulative effect of exacerbating the existing delays and disruptions to Downtown at the at-grade SP Railroad, which include disrupted vehicle traffic flows, diminished economic access, lessening of aesthetic values, and reduced private development and sales tax revenue for public frontage improvements.

*Nexus/Mitigation/Corrective Action: The Final SEIR/SEIS should do more to quantify and address this loss, and to provide mitigation.*

44. The loss of property values within the community will be substantial. The rail alignment along SR 152 will impact the existing land uses, and those uses for which the parcels are zoned and upon which the City has heavily invested for its future. The rail project has the potential to further divide the City, and to make development costs prohibitive in the industrial area. We ask that these very real impacts be identified, and that appropriate mitigation provided in the Final SEIR/SEIS.

*Nexus/Mitigation/Corrective Action: We ask that these very real impacts be identified, and that appropriate mitigation provided in the Final SEIR/SEIS.*

## **O. Agriculture**

45. Provide compensation for reduced jobs and income associated with permanent loss of agricultural land and productivity. Assessed valuation decreases- Ag land being displaced for the rail will cause decrease in value. There will be reduced ability to issue bonds, and reduced property tax for operations. Property tax in-lieu should be provided to the City.

*Nexus/Mitigation/Corrective Action: Overall, the high-speed rail authority's preferred route from Merced to Fresno would impact at least 1,200 to 1,500 acres of prime and important farmland, estimating that the agricultural production that stands to be lost could be valued between \$30 million and \$50 million. Analysts described the acreage figure as a fraction of the project's total, potential impact on agricultural land resources. A fraction of this figure has not yet determined but should be determined by CHSRA and FRA, and be reimbursed to the local community of Chowchilla. We ask that these very real impacts be identified, and that appropriate mitigation provided in the Final SEIR.*

*Source: "High-speed Rail: Route Decision Disappoints Affected Farmers" by Christine Souza. AgAlert Weekly Newspaper for California Agriculture. April 25, 2012.*

## **P. Groundwater**

46. The Draft SEIR/SEIS states there will be no impacts to groundwater. The City has no surface water source and relies on groundwater. The City may in the future be required to find new well sites outside the urban boundary and south and west of the proposed Wye rail alignments. We expect that the CHSRA/FRA will not allow excavation or horizontal drilling beneath the rail line if water trunk lines are needed.

*Nexus/Mitigation/Corrective Action: The City needs assurance/confirmation from CHSRA and FRA that the water lines can be excavated when needed or that sleeves will be provided for said water lines. Multiple sleeves should be installed and dedicated to ensure the lines can be installed accordingly beneath the rail line during construction at various locations (preferably where existing roadway intersect with the future High Speed Rail Line) to allow for future municipal water lines. Alternatively, the CHSRA and FRA should participate in the cost of developing a surface water alternative for the City. CHSRA shall coordinate with the City Public Works Director and City Engineer to ensure the future infrastructure 'sleeves' are properly sized and the Public Utility Easements are properly spaced and designed accordingly.*

47. Access groundwater and recharge to preserve groundwater rights on lands acquired by SRA and/or segmented by HSR facilities. Provide a mechanism to ensure that groundwater rights associated with acquired properties are sufficient for retaining local access to groundwater and aquifer for regional water supply and groundwater recharge needs.

*Nexus/Mitigation/Corrective Action: Provide a mechanism to ensure that groundwater rights associated with acquired properties are sufficient for retaining local access to groundwater and aquifer for regional water supply and groundwater recharge needs.*

## Q. Schools

48. The Draft SEIR has identified EJ-MM#1 as a mitigation measure to minimize environmental justice impacts associated with the construction of the three alternatives involving SR-152. EJ-MM#1 states the Authority would pursue the purchase of Fairmead Elementary School ("Fairmead Elementary") from the Elementary District, only after Fairmead Elementary is closed and a new school is built in Chowchilla. EJ-MM#1 further states that after such purchase, the Authority would transfer the school site to the County of Madera ("County") for operation and maintenance as a community center for the residents of Fairmead. EJ-MM#1 is inadequate for the reasons stated below. CEQA requires that "mitigation measures *must be fully enforceable* through permit conditions, agreements, or other legally-binding instruments." (Cal. Code Regs., tit. 14, § 15126.4(a)(2).) The purpose of this requirement is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then disregarded. (*Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) EJ-MM#1 is insufficient because it lacks a legally binding commitment for its implementation. EJ-MM#1 simply indicates that the Authority will "pursue" the purchase of Fairmead Elementary from the Elementary District. Of course, "pursue" does not equal "purchase," and thus, the measure does not constitute a "fully enforceable" commitment. Similarly, EJ-MM#1 states that the Authority would "coordinate" with the County for identification of long-term funding mechanisms for the operation, maintenance, and insurance of the community center. Again, this "coordination" does not constitute an enforceable commitment. EJ-MM#1 *lacks sufficient detail* to support a finding that such measures "have been required in, or incorporated into, the project" as required by Public Resources Code section 21081(a)(1).

*Nexus/Mitigation/Corrective Action: The Authority must reach a binding agreement with the*

*Elementary District for the purchase of the Fairmead Elementary site prior to approving the Final SEIR/SEIS.*

49. The Authority has identified various socioeconomic impacts to community cohesion resulting from construction activities themselves on any of the three SR-152 alternatives. For example, the Authority notes that construction activities would "introduce a visible and functional barrier that could deter neighbors from interacting, participating in community activities, and supporting each other, and could result in a perception by area residents that they have been separate from their community." (pg. 5-32.) Additionally, the SR-152 alternatives would create a permanent linear feature that would divide the northern and southern portions of the community, so that the residential northern part of the community would be separated from both residents and community facilities located south of Avenue 23. (pg. 5-33.) The long-term, permanent effect of the rail-on-berm presence, as a physical and visual barrier, is of immense concern to the City of Chowchilla and to the future of our schools, our children, and our way of life.

*Nexus/Mitigation/Corrective Action: Part of the remedy is to come to an agreement with the Elementary District prior to adoption of the Final SEIR/SEIS that ensures EJ-MM#1 can be implemented in a timely manner.*

50. The California Education Code limits the amount of general obligation bonds that elementary school districts may sell during any fiscal year to 1.25% of the total taxable property within the school district. (Ed. Code, § 15102 and 15268.) Thus, a school district's bonding capacity is directly tied to the total assessed value of property within its boundaries. The Authority recognizes that the project would result in the acquisition and displacement of residents, which would remove some private property from the local property tax rolls and reduce the local property tax revenues available to school districts. (See Impact SO #11.) However, the EIR fails to address how the net reduction in the number of taxable properties within the Elementary District will also adversely impact the Elementary District's future bonding capacity, and thus the Elementary District's ability to maintain and construct school facilities for children in the community.

*Nexus/Mitigation/Corrective Action: The CHSRA and FRA should consider and address the level of significance of the adverse impact to the Elementary District's bonding capacity.*

## **R. Conclusion**

The Final SEIR/SEIS needs to recognize these impacts, the mitigation recommended here, and provide for ongoing dialogue and agreements to address them before the Final SEIR/SEIS is certified.

The City of Chowchilla City Council and residents of Chowchilla thank you for considering the City of Chowchilla, County of Madera, as a potential home for the HSR heavy maintenance facility or other future HSR facility's generating future fulltime employment for the residents of the City of Chowchilla and the County of Madera. The City of Chowchilla will continue to work collectively with the CHSRA, the State of California, and the FRA, on the HSR route alignment that is supported by the local residents and by the previously approved Resolution Nos. 27-10,

81-15, and 25-16. It is imperative that suitable mitigation measures be provided and an agreement with CHSRA and the City of Chowchilla to off-set the impacts previously mentioned and within this letter. Thank you for your awareness of the integral role our City plays in the success of HSR.

We sincerely appreciate your attention to our commitment to support the HMF site in Madera County, consistent with previous requests, that aligns itself in close proximity to existing transportation corridors, the rail alignment, and which continues to provide for the protection of valuable agricultural and industrial land of Madera County and the City of Chowchilla.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rod C. Pruett", with a long horizontal flourish extending to the right.

Rod C. Pruett, CPA  
Interim City Administrator & Director of Finance  
City of Chowchilla

# **EXHIBIT A**

## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into as of January 23, 2013 ("Effective Date") by and between Plaintiff/Petitioner CITY OF CHOWCHILLA (the "City") and Defendant/Respondent CALIFORNIA HIGH SPEED RAIL AUTHORITY ("HSRA"). The City and HSRA are collectively referred to as the "Parties" and sometimes individually referred to as a "Party."

This Agreement memorializes the understanding of the Parties and is entered into by the Parties to fully resolve the following pending matter: *City of Chowchilla v. California High Speed Rail Authority* (Sacramento County Superior Court Case No. 34-2012-80001166) (filed June 1, 2012) (the "Chowchilla Lawsuit").

### RECITALS

A. On May 3, 2012, HSRA, through its Board of Directors and by means of a series of resolutions, certified pursuant to the California Environmental Quality Act (Public Resources Code § 21000 *et seq.*) ("CEQA") the Final Environmental Impact Report ("FEIR") and approved a proposed project known as the Merced to Fresno Section of the High Speed Train System (the "Approved MF Project"). The approval resolution did not include approval of high-speed train elements contained within the area ("Wye Area") depicted in the rectangular box shown in Figure 2 (attached hereto as Attachment A) of Exhibit A to approval Resolution 12-20, which area includes all of the City limits, but rather specified that high-speed train elements in this area shall be carried forward for further study and analysis in a further CEQA document such as but not limited to the pending San Jose to Merced EIR.

B. The first portion of the statewide system HSRA intends to construct is located generally between the Avenue 17/Burlington Northern Santa Fe railroad track intersection east of Madera and Kern County near Bakersfield ("Initial Construction Segment" or "ICS").

C. On May 3, 2012, the HSRA filed a Notice of Determination with the State Clearinghouse in the Governor's Office of Planning and Research.

D. On June 1, 2012, the City filed the Chowchilla Lawsuit, which consists of a Petition for Writ of Mandate and Complaint ("Petition") challenging HSRA's approval of the Approved MF Project under CEQA and alleging violations of the Bagley-Keene Open Meeting Act (California Government Code Section 11120, *et seq.*). The City requested under Public Resources Code Section 21167.6(a) that HSRA prepare the administrative record ("Record").

E. On June 1 and June 4, 2012, respectively, two other cases were filed in Sacramento Superior Court against the FEIR and Approved MF Project containing most of the same allegations and legal theories as the Chowchilla Lawsuit – case numbers 34-2012-80001165 and 34-2012-80001168 (“Related Lawsuits”).

F. By judicial order, the Chowchilla Lawsuit and the Related Lawsuits are consolidated in Department 29 for case management (including administrative record matters), briefing and trial purposes only. A hearing on the merits in the Chowchilla Lawsuit and Related Lawsuits is scheduled for April 19, 2013.

G. In 2012, HSRA completed and certified the Record and lodged it with Department 29. The Record is the same for the Chowchilla Lawsuit and the Related Lawsuits.

H. The Parties to this Agreement believe that their mutual interests will be best served if the Chowchilla Lawsuit is dismissed, per the terms of this Agreement.

#### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and/or covenants contained in this Agreement and any other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals and Definitions Incorporated. Each recital and definition set forth above is incorporated herein by reference and is made part of this Agreement.

2. No Admissions. All Parties understand and agree that nothing in this Agreement, or in the execution of this Agreement, shall constitute or be construed as an admission of wrongdoing by any Party or of any inadequacy or impropriety in connection with HSRA’s approval of the Approved MF Project.

3. Dismissal of Petition with Prejudice. Within ten (10) days after this Agreement is fully executed by all Parties, the City shall execute and file and serve a dismissal of the Chowchilla Lawsuit in its entirety with prejudice (the “Dismissal”). The Dismissal shall be in the exact form (except the addition of a signature by someone representing the City with requisite authority) as the Dismissal form attached hereto and incorporated herein as Attachment B, which form is acceptable to the Parties. HSRA agrees to waive any affirmative defenses based on the fact of the City’s dismissal of the Chowchilla Lawsuit in any future lawsuit filed by the City against any future CEQA document on the Wye Area related to its decision to remove the Wye Area from the Approved MF Project approved on May 3, 2012 via HSRA Resolution 12-20, as described in the FEIR certified by the HSRA Board in Resolution 12-19. The City reserves its rights as described in paragraph 6 below.

4. HSRA's Obligations Regarding Wye Area.

4.1. HSRA acknowledges that the City is concerned that high-speed rail elements within the Wye Area, once approved and constructed by HSRA and as operational, would be unacceptable to the City if the elements include an alignment along Avenue 24, such as that depicted in Attachment A. HSRA acknowledges that such an Avenue 24 alignment would traverse a large area recently approved by LAFCO for annexation and that it could have a negative economic impact on the City if it were chosen as the preferred high-speed rail alignment because of the City's plan for a large multi-use commercial, entertainment and industrial development in the annexation area, which could be negatively impeded by an Avenue 24 alignment. HSRA acknowledges that this development is very important to the City. HSRA will consider these factors when it determines whether an Avenue 24 alignment is feasible under CEQA.

4.2 HSRA acknowledges that the City is concerned that high-speed rail elements within the Wye Area, once approved and constructed by HSRA and as operational, would be unacceptable to the City if the elements include an alignment along the Union Pacific/State Route 99 corridor within the City, such as that depicted in Attachment A. HSRA acknowledges that the Union Pacific railroad tracks and State Route 99 already transect a near-center area of the City's limits, which impedes connectivity and cohesiveness. HSRA further acknowledges that its preliminary estimate of the cost of constructing high-speed rail infrastructure along a Union Pacific railroad/State Route 99 ("UPRR/SR99") alignment is almost half a billion dollars (\$.47 billion) more than the next most expensive non-UPRR/SR99 alignment within the Wye Area that HSRA currently is evaluating. HSRA will consider these factors when it determines whether a UPRR/SR99 alignment is feasible under CEQA. The attached map (at Attachment C) shows the Wye Area routes being recommended by HSRA staff to be carried forward for environmental evaluation. If the UPRR/SR99 alignment is selected and approved as the preferred alternative route, the HSRA will consult and work with the City in good faith to address the City's above issues and carry forth appropriate means to ameliorate those issues.

4.3 HSRA agrees to consider in good faith the City's concerns and potential issues set forth in subsections 4.1 and 4.2 above, as the City has expressed in more detail in various communications to HSRA and as the City may further express as HSRA's development of alternatives in the Wye Area evolves, as alternatives may be eliminated from further consideration, and in ultimately selecting an alignment within the Wye Area. HSRA will not select an alignment in the Wye area solely based upon the May 3, 2012 Final Environmental Impact Report ("FEIR") approved by the HSRA Board as Resolution 12-19.

4.4 HSRA will work with the City to draft and execute appropriate cooperative agreements to address issues such as, but not limited to, utility relocations, relocation assistance and the like.

5. Legal Fees and Other Costs.

5.1 HSRA agrees to pay the City \$ 300,000 related to the City's attorney fees and costs incurred in connection with filing and pursuing the Chowchilla Lawsuit. HSRA will make the payment after HSRA finalizes and certifies the CEQA document on the Wye Area and approves a Wye alignment and the statute of limitations for a CEQA lawsuit challenging that CEQA document has run. HSRA will not make the payment if HSRA approves a Wye Area alignment that does not include a UPRR/99 or Avenue 24 alignment within City limits (*i.e.*, if HSRA avoids making a decision that would be unacceptable to the City) and the City sues HSRA anyway.

5.2 HSRA shall not pursue recovery from the City of any costs incurred by HSRA in its preparation of the Record or otherwise associated with the preparation of the Record for the Chowchilla Lawsuit. By agreeing not to pursue recovery of such costs from the City, HSRA is not explicitly or implicitly waiving its rights to seek recovery from the petitioners and plaintiffs in the Related Lawsuits of the full amount of costs HSRA incurred in preparing the Record.

6. Reservation of Rights. Nothing in this Agreement, including the dismissal of the Chowchilla Lawsuit, shall affect the rights of the City in seeking to enforce or obtain a remedy for, or in connection with, any future approvals made by HSRA regarding the San Jose to Merced Section EIR or any EIR or other CEQA document that is the basis for a selection of alignments by HSRA in the Wye Area. HSRA waives any rights to claim in any such lawsuit that the City by entering the Agreement waived any arguments or claims regarding the San Jose to Merced Section EIR or any EIR or other CEQA document that is the basis for a selection of alignments in the Wye Area, except to the extent the City relies on such arguments or claims in seeking to enjoin or obtain a writ equivalent to an injunction stopping or suspending the ICS.

7. Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be given in writing by regular mail, overnight courier, facsimile, or as attachments to emails to:

If to HSRA:

California High Speed Rail Authority  
Chief Counsel  
770 L Street, Suite 800  
Sacramento, CA 95814  
Phone: (916) 324-1541  
Fax: (916) 322-0827  
tfellenz@hsr.ca.gov

With a copy to:

James Andrew  
Deputy Attorney General  
1300 I Street  
P.O. Box 944255  
Sacramento, CA 94244  
Phone: (916) 323-1722  
Fax: (916) 327-2319  
Email: [james.andrew@doj.ca.gov](mailto:james.andrew@doj.ca.gov)

If to the City:

City of Chowchilla  
City Administrator  
130 S. Second Street  
Civic Center Plaza  
Chowchilla, CA 93610  
Phone: (559) 665-8615  
Fax: (559) 665-7418  
Email: [mlewis@ci.chowchilla.ca.us](mailto:mlewis@ci.chowchilla.ca.us)

With a copy to:

Thomas Ebersole  
Cota Cole LLP  
730 North I Street, Suite 204  
Madera, CA 93637  
Phone: (559) 675-9006  
Fax: (559) 675-9050  
Email: [tebersole@cotalawfirm.com](mailto:tebersole@cotalawfirm.com)

8. Representations and Warranties: General Provisions. Each of the Parties represents, warrants, and agrees as follows:

8.1 The descriptive headings and titles used in this Agreement are for convenience only and shall not affect the meaning of any provision of this Agreement.

8.2 Each Party to this Agreement has received independent legal advice from its attorneys with respect to the advisability of making the settlement provided for herein, and with respect to the advisability of executing this Agreement.

8.3 This Agreement contains all of the representations and the entire understanding and Agreement among the Parties with respect to the matters described in the Agreement. Correspondence, memoranda, and oral and written Agreements that

originated before the date of this Agreement are replaced in total by this Agreement unless otherwise expressly stated in this Agreement.

8.4 This Agreement may be modified or amended only by written agreement executed by all of the Parties.

8.5 Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties, any rights or benefits under or by reason of this Agreement. There are no third party beneficiaries of this Agreement.

8.6 In any litigation between the Parties regarding this Agreement, the prevailing party shall be entitled to recover, in addition to such other relief as may be granted, its reasonable costs and expenses, including reasonable attorneys' fees and court costs.

8.7 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one Agreement. One or more signatures on this Agreement may be executed and delivered by facsimile or by PDF or JPEG attachment to an email, and each such signature shall constitute an original and valid signature. This Agreement shall become effective immediately following execution by all of the Parties on the latest date appearing below.

8.8 If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the Parties shall amend this Agreement and/or take other action necessary to achieve the intent of this Agreement in a manner consistent with the ruling of the Court.

8.9 The individuals signing this Agreement on behalf of each Party represent and warrant that they have full authority and are duly authorized to do so on behalf of the Party they represent.

8.10 The Parties shall cooperate to ensure that the steps necessary to implement this Agreement are carried out. The Parties to this Agreement agree to execute any further documentation that may be required to carry out the purpose of this Agreement and perform all acts necessary to effectuate the provisions of this Agreement. If any dispute related to the terms of this agreement arise between or among the Parties, the Parties will first meet and discuss the dispute in good faith in an attempt to resolve it.

8.11 The Parties agree that specific performance is an appropriate remedy for enforcement of this Agreement.

9. Judgment. The Parties shall endeavor to have the terms of this Agreement incorporated into a judgment, but this Agreement is valid and binding even if a judgment cannot be obtained despite the best efforts of the Parties.

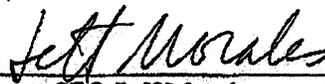
Dated: January 22, 2013

CITY OF CHOWCHILLA, a California  
Municipal Corporation

  
\_\_\_\_\_  
Mayor Dennis Haworth

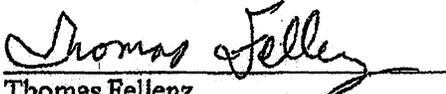
Dated: January 24, 2013

CALIFORNIA HIGH SPEED RAIL  
AUTHORITY, a California State Agency

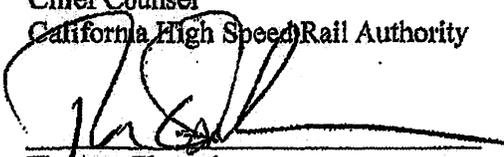
  
\_\_\_\_\_  
CEO Jeff Morales

APPROVED AS TO FORM:

Dated: January 24, 2013

  
\_\_\_\_\_  
Thomas Fellenz  
Chief Counsel  
California High Speed Rail Authority

Dated: January 22, 2013

  
\_\_\_\_\_  
Thomas Ebersole  
City Attorney  
City of Chowchilla



# CITY OF CHOWCHILLA CALIFORNIA

The seal of the City of Chowchilla, California, is circular. It features a central illustration of a bridge over a river. The text around the seal reads "CITY OF CHOWCHILLA CALIFORNIA" at the top, "GATEWAY TO PROSPERITY" in the middle, and "INCORPORATED FEB 7, 1923" at the bottom.

June 20, 2019

California High-Speed Rail Authority  
770 L Street, Suite 620 MS-1  
Sacramento, CA 95814

**Subject: Comments on the Central Valley Wye Draft Supplemental EIR/EIS**

Dear High-Speed Rail Authority:

The City is concerned that the City's preferred alternative Wye configuration is not the one identified by CHSRA as the Draft SEIR's preferred alternative. The "Avenue 21 and Road 11" alignment, south of SR 152, is the only alternative that does not rupture our City. We request that this alternative be analyzed as previously requested, and that it proceed as the preferred Wye project alignment.

City residents, councilmembers and staff understand local conditions, the needs of the people living here, our preferred travel routes, economic drivers, and those things that improve or detract our aesthetic values and quality of life. The Avenue 21 and Road 11 project alignment will cause the least damage to the City's land uses, utilities, growth plans and prosperity. CHSRA must recognize that it has previously committed, per the Settlement Agreement signed by CHSRA on January 24, 2014, that it would not select a route that would enter the City. Failure of CHSRA to abide by the settlement, to move forward with a different alignment such as the one now presented in the Draft SEIR, will be a breach of the adjudged settlement.

The City also reminds the CHSRA, per our letter request last week to extend the public review period, that 45 days is not enough time for staff and decision-makers of a small City, or for anyone, to read and comment on an assessment of a project of this scale and lasting consequences. If the Draft SEIR was only a CEQA EIR it would not be enough time. CHSRA has published a combined CEQA/NEPA document, and CHSRA staff states that the NEPA portions are likely irrelevant due to federal non-involvement. As a dual CEQA/NEPA EIR/EIS, it is not reasonable to expect reviewers to ferret out what is germane only to CEQA and to commenters' area of concern from among what is embedded within many hundreds of pages.

Given that the SR 152 and Road 11 alignment is at this time identified as preferred by CHSRA, below is a summary of those areas we find the Draft SEIR as not having been adequately addressed.

### **Impact Avoidance and Minimization Features (IAMFs)**

1. Impact analyses assume implementation of IAMFs and therefore does not disclose environmental impacts that would occur if the IAMFs are not implemented. Lotus vs. Caltrans (2014) directs that when a project incorporates measures to avoid or reduce environmental effects, an EIR must evaluate and disclose the effects in the absence of those measures. This is particularly relevant to the DSEIR in that the IAMFs do not provide sufficient commitments, detail, or performance standards to ensure they would adequately reduce potential impacts, yet the DSEIR assumes they would be adequate and therefore fails to disclose impacts that would occur if the IAMFs are not more clearly defines and fully implemented.

### **Mitigation Measures – General Comments**

2. Mitigation Measures are brief phrases and do not provide substantive detail of implementation requirements or performance standards.
3. The DSEIR is unclear with regard to how the mitigation measures adopted for the 2012 Merced- Fresno segment relate to the mitigation measures identified in the Central Valley Wye EIR.

### **Transportation**

4. Existing road network access will be closed, and that traffic will be funneled to fewer access points, with increased and unanticipated loading at those points, with need for additional ROW acquisition, road widening, signalization, etc. CHSRA should fully analyze the increased volumes at the remaining roads, and provide appropriate design and construction mitigations and provide for review and acceptance by the City Engineer. Sufficient funds should be provided by CHSRA for City staff involvement supporting the project.
5. The project, both during construction and long-term, will reduce the number of existing accessways into and out of the City's urban core, will restrict traffic flows, and cause increased response times for emergency responders. Slower response times will increase the potential for fatalities and loss of property. Slower calculated response times will erode the City's Insurance Service Office (ISO) rating, driving up municipal corporation costs and reducing the City's attractiveness to future developers and investors. This is not adequately addressed in the Draft SEIR.
6. The project will result in redirected traffic flows to Robertson Blvd and SR 99. The effects on this interchange should be analyzed further, with mitigation to increase Robertson Blvd to at least 4 lanes with adequate pedestrian access as well. The increased traffic will also require Robertson Blvd to be signalized on both sides of SR 99.
7. Mitigation for impacts to local agency transportation infrastructure due to construction activities (i.e. detour and haul routes).
8. Analysis of proposed SR 152 at-grade crossings for City roads with respect to the General Plan Circulation Element, and Freeway agreements with Caltrans for SR 152.

9. Identify specific phasing for construction of segments/intersections to minimize concurrent construction and cumulative traffic impacts associated with interchange and/or grade separation structure construction; and avoid starting construction without having all ROW and/or Utility clearance issues resolved to minimize potential for construction delays once started.
10. The City should be provided the opportunity to review and approve/concur with construction impact analyses, mitigation requirements, facility design, and construction monitoring of HSR-related construction or reconstruction of City roads and other infrastructure, and be subject to Chowchilla Department of Public Works encroachment permits. CHSRA and all of its contractors should be required to fully comply with conditions of local agency permits and this provision should be included in any contracts CHSRA enters into with any contractor who is designing/constructing HSR-related facilities. If not in existing contracts for facilities in Chowchilla, the provision should be added.
11. As part of the project construction and the significant impacts of permanent road closures resulting from HSR facilities, there should be designed and constructed a full access interchange at SR 152 and SR 99 providing full access in all directions.
12. Road closures and route modifications analysis consider “representative” roadway segments, but should evaluate ALL affected routes, including Avenue 25 which is a main agricultural thoroughfare into the City.
13. Establish mechanism to minimize construction-related traffic effects (detours, closures) through construction scheduling and phasing; and review and approval of construction traffic management plans by affected local agencies.
14. Establish mechanism to ensure construction contractors are accountable to HSRA and to the City for adherence to construction/traffic management plans and mitigation requirements.
15. With visibility toward, and access into, Chowchilla and the industrial park from SR 152 substantially diminished, traffic eastbound on SR 152 that presently cannot transition to northbound SR 99, must be afforded the opportunity to access the City before being shunted southbound on SR 99. CHSRA should provide for reconstruction of SR 99/SR 152 interchange that includes northbound/southbound on- and off-ramps.
16. Minimize permanent local road and crossings closures, and accommodate increased traffic on roads/crossing that will remain.
17. Restore and improve existing local roads to mitigate construction impacts and to accommodate increased use due to closure of other roads.
18. The SEIR has not addressed the impacts of construction material hauling and other construction upon rural City roads. Many existing roads are in poor condition and the addition of material hauling vehicles and other construction equipment may significantly

deteriorate or destroy them. The City's entire road network must be upgraded to handle the increase in material hauling.

### **Air Quality and Climate Change**

19. Particulate matter generated by trains moving at 220 MPH needs to be discussed and appropriately mitigated. Road closures and very large overcrossings in industrial areas. These large overcrossings and raised track will have impacts upon climatic conditions (temperature and wind patterns). Mitigation measures should be coordinated with local landowners and City officials, with delineation of specific areas that will be impacted and specificity on type and degree of impacts.
20. The document does not appear to sufficiently evaluate health effects of criteria air pollutants as required per *Sierra Club vs. Fresno County* (CA Supreme Court, 2018).
21. Appendix C.12-3 (Children Health Risk) oversimplifies project benefits without discussion of air quality impacts at specific locations due to road system modifications.
22. Ensure that the HSR does not adversely affect the region's ability to comply with Federal Clean Air Act "Transportation Conformity" requirements.

### **Noise and Vibration**

23. Effects of decelerating and accelerating trains on the south and west sides of Chowchilla have not been fully addressed. It is noted that the CHSRA will work with affected communities to develop performance criteria for noise mitigation and to also develop design guidelines. Such efforts may be helpful after the fact, but push off formulating mitigation to a future unknown time, and additionally impose such mitigation on the City and its residents rather than on the source of the noise and vibration – the HSR Wye project. This must be resolved to the satisfaction of the community prior to certifying the Final EIR.
24. The long-term effects of vibration and electrolysis to pipelines and agricultural and municipal wells needs to be addressed and disclosed, and adequately mitigated. There will be a problem for those impacted landowners to acquire operational financing to deal with the long-terms effect once HSR is ongoing and effects become apparent.

### **Environmental Justice**

25. The Wye project imposes an enormously negative and disproportionate degree of impact on the City of Chowchilla, its community and its people. Chowchilla is in the center of the State's largest economically disadvantaged region, the Southern San Joaquin Valley. Chowchilla has a high minority demographic, a low median household income, and among the highest unemployment rates in the State – twice the State and national averages – and is deemed a "Very High Unemployment Area." No other community in the State will have HSR track and trains wrapping it on two sides. No other community will be enclosed in such a manner. HSR, while positive for many people of the State in many ways, is not a benefit to Chowchilla, but intensely damaging to our infrastructure, our safety, our plans, our future. Whether running east-west or north-south, every train will pass through our City, and pass it by. There will be no station here, but there will be the constant drone of engines winding-down and spooling-up, and the hum of steel

wheels on rail, decelerating and accelerating around the mere intersection of a massive rail project that Chowchilla will become, carrying riders who can afford it, between the great population centers of California. The long-term economic impact on Chowchilla is unimaginable, and certainly the Draft SEIR has made little effort to assess it. The City requests that as a matter of mitigation and of justice, the future Heavy Maintenance Facility (HMF) be located in Madera County, consistent with the City's previous requests and resolutions, that is proximate to the Wye and which corresponds to the area of greatest impact, to assist in partially off-setting this impact by providing some measure of employment and business opportunity.

### **Public Utilities, Services, Safety and Energy**

26. The City of Chowchilla wastewater treatment plant (WWTP) is nearing capacity, and the General Plan calls for a second WWTP to be constructed west of the City along the north side of SR 152. The City is presently cooperating with the California Water Resources Control Board request that the City provide wastewater treatment to the Community of Fairmead, which at present is at risk of contaminating the groundwater supply. The new trunk line from Fairmead will absorb a substantial portion of the City's remaining capacity. However, the proposed Wye alignment runs through the proposed new WWTP site as designated on the GP. In addition to conflicting with the adopted General Plan, the City would not expect to find an alternative WWTP site easily, nor to acquire it without a fight given that all other possible locations are presently designated and zoned for income-producing uses. The City will need CHSRA to acquire and construct the new WWTP in a suitable location.
27. The Fairmead sewer trunk line will be constructed along the east side of SR99 from the Community of Fairmead north to Avenue 24. If construction of the HSR line precedes construction on the Fairmead sewer line, a sleeve beneath the HSR line will need to be provided for the sewer line, since we expect that CHSRA will not allow excavation beneath the rail line. A second sleeve will also be needed in the event of failure of the sewer line at or near the rail line.
28. Permanent restricted access along the south side of the City caused by the alignment's raised berm and permanent closures of existing roads will diminish the visibility to, and attractiveness of, the City's industrial park to investors and stagnate development of needed infrastructure that would otherwise be built out by developers. ROW acquisition, water and sewer trunk lines, and streets, consistent with the City's accepted Industrial Park Specific Plan, should be funded by CHSRA.
29. In the event of an emergency related to HSR, the Chowchilla Fire and Police Departments will provide rescue, extraction, and fire suppression services inside and outside the City. The Chowchilla Fire Department does not own apparatus capable of reaching elevated track and cars in an emergency. A ladder truck will be needed. If HSR, the only bullet train in the country, should become a target of terrorism, Chowchilla Police will respond, will plan for such an event, and must be adequately provisioned to do so. This scenario remains to be addressed. Assurances must be given to the City now that the resources to meet its emergency response obligations to come to the assistance of CHSRA passengers and property will be in place.

30. There is currently one fire station in Chowchilla, located north of the downtown core. A fire station is planned for the Industrial Park and will be needed south of Berenda Slough within Planning SubArea 8 (Chowchilla General Plan). This fire station will be needed with development of the HSR line in order to achieve timely response to emergencies on or near the HSR and should be funded by CHSRA. CHSRA should ensure that this safety need will not be left unmet, that it will be fully accounted for through an agreement with the City before the Final SEIR is certified.
31. The City's drainage master plan and the Chowchilla General Plan call for regional drainage basins to collect stormwater. Chowchilla is in a low-lying area with active flowing sloughs inside the City that pose flood hazards. The loss of open and available lands along the south and west sides of the city that would be suitable for such basins should be compensated by CHSRA with acquisition and construction of appropriately located and sized basins.
32. The Draft SEIR acknowledges impacts to surface hydrology and to the 100-year floodplain. The Wye configuration, with rail on raised berm along the south and west sides of the City, may have the effect of acting as a dam in the event of flooding from upslope – east and northeast- along the two sloughs. This potential safety issue should be addressed.

#### **Aesthetics/Visual**

33. The Draft SEIR description diminishes the level of visual impact by stating that the CHSRA's preferred Wye alignment isn't as bad as one of the other alignment options that Chowchilla doesn't want. This isn't a finding that Chowchilla finds comfort in. The proposed elevated rail alignment along the north side of SR 152 will have aesthetic and economic impacts on Chowchilla that need further attention than is provided for in the Draft SEIR. Views of Chowchilla from SR 152 will literally be blocked by the elevated berm and rail line, which will suppress interest, commerce and development in Chowchilla. The City's urban core and treeline, and the new industrial park, will no longer be visible from SR 152, which will effectively truncate the City's potential for attracting investors.
34. Provide high quality, high visibility signage at Chowchilla's "Gateways," which are those roads that will not be permanently closed – Robertson Blvd at SR152 and Road 16 at SR152, as well as Avenue 24 at SR99, to include arches reminiscent of the City's historical entry arch, with City approval of final design and funding by HSR.
35. It can be expected that there will be physical deterioration of areas underneath elevated guideways and alongside at-grade track, including vandalism, graffiti, and blighting. There must be specific programs identified for easements and parks, with architecturally attractive features built into the rail infrastructure, with maintenance and operations to be the responsibility of the CHSRA, and park and ride lots identified with maintenance to be the responsibility of the CHSRA.

36. The loss of our way of life, the loss of generational legacy, and deterioration of community cohesiveness – all must be recognized, assessed and quantified as much as possible, and mitigated. The Draft SEIR does not presently address this.

### **Biological Resources**

37. Ensure that funding or direct habitat conservation provisions are provided by HSRA for any future roadway or other public facilities that may need to be constructed or reconstructed by a public agency as a result of the HSR.

### **Cumulative Projects Analysis**

38. Table 2-2 should include Chowchilla's Sessions Tentative Subdivision Map, 200 SFR lots that was approved in April 2019. The Fox Hills Community Plan in Merced County is no longer a factor, it has been abandoned for ten years. This may also be the case for the Villages of Laguna San Luis.

### **Alternatives Evaluation**

39. The City requests CHSRA return to the Ave 21 & Road 11 alignment option, and select this as the preferred, and environmentally superior, project alternative.
40. Alternatives identification okay for developing the preferred alternative/proposed project; however, the DSEIR does not comply with CEQA requirement to consider alternatives that would reduce impacts of the proposed project. Alternatives that would avoid or reduce significant impacts of the proposed project are not identified or evaluated in compliance with CEQA. The alternatives evaluation process described in the DSEIR describes the method for selecting the preferred alternative/proposed project; however, CEQA identification and evaluation of alternatives to the proposed project that would avoid or reduce significant environmental effects of the proposed project. The CEQA alternatives analysis, therefore, must be done after the proposed project is identified and not as part of the process of selecting the proposed project.

### **Land Use**

41. The HSR will effectively box the city into a triangle with State-owned linear infrastructure, a containment not addressed by the City's General Plan. We will need help from the State to ensure that Chowchilla is not cut-off from our agricultural economy, commerce, and our neighboring communities.
42. The CHSRA should provide funding to the City to update the General Plan and the Industrial Specific Plan, the water, sewer, and drainage master plans, and other local planning documents as necessary due to HSR's impacts on existing and planned land uses, effects on land use compatibility, parcel acquisition and division, effects on the established community, and effects on transportation system (existing and planned roads and bike/pedestrian facilities).
43. Fairmead Elementary School will be displaced, and it remains unclear how this will be sufficiently mitigated.
44. The Draft SEIR greatly underestimates the CHSRA's preferred alignment's effects on land use. The assessment does not account for our Industrial Park, which we have invested in

but is not built-out, and will likely not ever be built-out with placement of the HSR within it. The rail alignment will cause valuable industrial land to be lost from the south end of the City's industrial park. To offset this, the CHSRA should relocate the Chowchilla Municipal Airport to a suitable site west of the City, allowing the existing airport site to become available for industrial development. Once the HSR is being constructed and in-place, it will be extremely unlikely that LAFCo will allow the City any annexations beyond the rail line, as it will be seen as the most significant "natural boundary." The City will be effectively contained by the HSR and not allowed to grow south or west. There will be no new replacement area for the industrial land lost to the HSR. Locating the Airport beyond the HSR line, will free-up the present airport site for the lost industrial land and will mitigated this impact.

45. The SEIR states that there will be no impact on future development of recreational trail corridors. Chowchilla has planned for a broad bike trail and pedestrian path along the south side of Berenda Slough within the Industrial Park, the Berenda Slough Trail, with a 50-foot native landscaped corridor, to connect with the City's Bikeway System. This will not be built if the Industrial Park is not built, and the HSR Wye alignment within the Industrial Park will likely kill investor-developer interest here.
46. Provide compensation, as well as work force training, for economic and community effects of HSR in the City.
47. Provide compensation for loss of property tax revenue from properties acquired for HSR facilities or otherwise affected by HSR (e.g., payments in lieu of taxes).
48. Select the Heavy Maintenance Facility (HMF), and light maintenance and ROW, in Madera County, consistent with those resolutions previously provided to CHSRA, to help offset the economic and community impacts of rendering Chowchilla.
49. With the junction of the San Jose-Merced and Merced-Fresno segments inside Chowchilla city limits, it is reasonable to expect that the HMF facility would be located, and should be located, in Madera County near the Wye. Locating the Wye in Chowchilla results in the HSR having greater and disproportionate impacts in Chowchilla due to the extra track miles needed to accommodate the Wye intersection of the San Jose-Merced and Merced-Fresno segments. Locating the HMF in Madera County would provide revenues/jobs and would contribute to offsetting adverse effects of the Wye.
50. The Authority should coordinate with the City and Madera County agencies for selection of an HMF site for the proposed project and development and operation of an HMF on the selected site should be evaluated as a component of the project.
51. The HSR Wye project will have the cumulative effect of exacerbating the existing delays and disruptions to Downtown caused by the at-grade SP Rail Road, which include disrupted vehicle traffic flows, diminished economic access, lessening of aesthetic values, and reduced private development and sales tax revenue for public frontage improvements. The Draft SEIR should do more to quantify and address this loss, and to provide mitigation.

### **Socioeconomics**

52. The loss of property values within the community will be substantial. The rail alignment along SR 152 will impact the existing land uses, and those uses for which the parcels are zoned and upon which the City has heavily invested for its future. The rail project has the potential to further divide the City, and to make development costs prohibitive in the industrial area. We ask that these very real impacts be identified and that appropriate mitigation provided in the Final SEIR.

### **Agriculture**

53. Provide compensation for reduced jobs and income associated with permanent loss of agricultural land and productivity.
54. Assessed valuation decreases- Ag land being displaced for the rail will cause decrease in value. There will be reduced ability to issue bonds, and reduced property tax for operations. Property tax in-lieu should be provided to the City.

### **Groundwater**

55. The Draft SEIR states there will be no impacts to groundwater. The City has no surface water source and relies on groundwater. The City may in the future be required to find new well sites outside the urban boundary and south and west of the proposed Wye rail alignments. We expect that the CHSRA will not allow excavation or horizontal drilling beneath the rail line if water trunk lines are needed. Multiple sleeves should be installed beneath the rail line during construction at various locations to allow for future municipal water lines. Alternatively, the CHSRA should participate in the cost of developing a surface water alternative for the City.
56. Access groundwater and recharge to preserve groundwater rights on lands acquired by SRA and/or segmented by HSR facilities.
57. Provide a mechanism to ensure that groundwater rights associated with acquired properties are sufficient for retaining local access to groundwater and aquifer for regional water supply and groundwater recharge needs.

### **Schools**

58. The Draft SEIR has identified EJ-MM#1 as a mitigation measure to minimize environmental justice impacts associated with the construction of the three alternatives involving SR-152. EJ-MM#1 states the Authority would pursue the purchase of Fairmead Elementary School ("Fairmead Elementary") from the Elementary District, only after Fairmead Elementary is closed and a new school is built in Chowchilla. EJ-MM#1 further states that after such purchase, the Authority would transfer the school site to the County of Madera ("County") for operation and maintenance as a community center for the residents of Fairmead. EJ-MM#1 is inadequate for the reasons stated below. CEQA requires that "[m]itigation measures *must be fully enforceable* through permit conditions, agreements, or other legally-binding instruments." (Cal. Code Regs., tit. 14, § 15126.4(a)(2).) The purpose of this requirement is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then disregarded. (*Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) EJ-MM#1 is insufficient because it lacks a

legally binding commitment for its implementation. EJ-MM#1 simply indicates that the Authority will "*pursue*" the purchase of Fairmead Elementary from the Elementary District. Of course, "*pursue*" does not equal "*purchase*," and thus, the measure does not constitute a "fully enforceable" commitment. Similarly, EJ-MM#1 states that the Authority would "*coordinate*" with the County for identification of long-term funding mechanisms for the operation, maintenance, and insurance of the community center. Again, this "*coordination*" does not constitute an enforceable commitment. EJ-MM#1 *lacks sufficient detail* to support a finding that such measures "have been required in, or incorporated into, the project" as required by Public Resources Code section 21081(a)(1). The Authority must reach a binding agreement with the Elementary District for the purchase of the Fairmead Elementary site prior to approving this EIR.

59. The Authority has identified various socioeconomic impacts to community cohesion resulting from construction activities themselves on any of the three SR-152 alternatives. For example, the Authority notes that construction activities would "introduce a visible and functional barrier that could deter neighbors from interacting, participating in community activities, and supporting each other, and could result in a perception by area residents that they have been separate from their community." (pg. 5-32.) Additionally, the SR-152 alternatives would create a permanent linear feature that would divide the northern and southern portions of the community, so that the residential northern part of the community would be separated from both residents and community facilities located south of Avenue 23. (pg. 5-33.) The appropriate remedy is to come to an agreement with the Elementary District *prior to* adoption of the EIR that ensures EJ-MM#1 can be implemented in a timely manner.
60. The California Education Code limits the amount of general obligation bonds that elementary school districts may sell during any fiscal year to 1.25% of the total taxable property within the school district. (Ed. Code, § 15102 and 15268.) Thus, a school district's bonding capacity is directly tied to the total assessed value of property within its boundaries. Th Authority recognizes that the project would result in the acquisition and displacement of residents, which would remove some private property from the local property tax rolls and reduce the local property tax revenues available to school districts. (See Impact SO #11.) However, the EIR fails to address how the net reduction in the number of taxable properties within the Elementary District will also adversely impact the Elementary District's future bonding capacity, and thus the Elementary District's ability to maintain and construct school facilities for children in the community. The Authority should consider and address the level of significance of the adverse impact to the Elementary District's bonding capacity.

The Final SEIR needs to recognize these impacts, the mitigation recommended here, and provide for ongoing dialogue and agreements to address them before the Final SEIR is certified. Additional comments on Chowchilla's behalf are provided in the Wye Madera County Task Force comment letter, and are incorporated here by reference.

The City of Chowchilla City Council and citizens of Chowchilla thank you for considering the City of Chowchilla, County of Madera, as a potential home for the HSR heavy maintenance and storage facility. The City of Chowchilla will continue to work collectively with the CHSRA and

the State of California on the HSR route alignment that is supported by the local residents and by the previously approved Resolution Nos. 27-10, 81-15, and 25-16. It is imperative that suitable mitigation measures be provided to off-set impacts to the City of Chowchilla. Thank you for your awareness of the integral role our City plays in the success of HSR.

We sincerely appreciate your attention to our commitment to support the HMF site in Madera County, consistent with previous requests, that aligns itself in close proximity to existing transportation corridors, the rail alignment, and which continues to provide for the protection of valuable agricultural and industrial land of Madera County and the City of Chowchilla.

Sincerely,



Rod C. Pruett, CPA  
Interim City Administrator & Director of Finance  
City of Chowchilla

Attachment: Chowchilla City Council Resolution No. 25-16

## COUNCIL RESOLUTION # 25-16

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHOWCHILLA, CALIFORNIA, IN SUPPORT OF LOCATING THE CALIFORNIA HIGH SPEED RAIL HEAVY MAINTENANCE FACILITY IN MADERA COUNTY

**WHEREAS**, the City of Chowchilla joins the County of Madera and the City of Madera in support of locating the California High Speed Rail Maintenance Facility in Madera County; and,

**WHEREAS**, the County of Madera is in the center of the State and represents the backbone of the California High Speed Rail project, bearing the placement of the wye and the most track miles of any county in the initial operating segment; and,

**WHEREAS**, the stated policy goal of the California High Speed Rail Authority (CHSRA) is to provide benefit to those communities who are accommodating the system and Madera County is the only County who has yet to be designated any facility in the system; and,

**WHEREAS**, locating the Heavy Maintenance Facility (HMF) in Madera County would serve as a much needed stimulus to the struggling local economy and create an estimated 20,000 jobs for the next five years, create approximately 1,500 permanent jobs when the facility is completed, generate additional property taxes for the County, and would provide the most measurable economic benefit to offset the loss of important agricultural land and employment opportunities; and,

**WHEREAS**, a HMF placed in Madera County would serve the labor markets of the largest labor forces in the San Joaquin Valley including Fresno, Madera, Merced, and Stanislaus Counties, making Madera County the only regional site under consideration and providing the CHSRA with the largest number of local employees to staff the HMF; and,

**WHEREAS**, The City remains consistent with Chowchilla City Council Resolution # 81-15.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Chowchilla hereby finds and determines the following:

1. The City Council of the City of Chowchilla joins Madera County and the City of Madera in support of the location of the HMF for the California High Speed Rail System within the County of Madera.
2. The City Council of the City of Chowchilla respectfully request the CHSRA mandate that a site in Madera County, whether existing or an alternative, that meets the criteria as described in the technical memoranda developed by the CHSRA, meets the delivery schedule, and is cost competitive, be given priority and placed in Madera County.
3. The City Council directs that a copy of this resolution shall be forwarded to the CHSRA for consideration when evaluating the alternatives for the HMF.

**PASSED AND ADOPTED** by the City Council of the City of Chowchilla this 23rd day of February, 2016 by the following vote to wit:

**AYES: 5 – Walker, Chavez, Gaumnitz, Haworth, Ahmed**

**NOES: 0**

**ABSENT: 0**

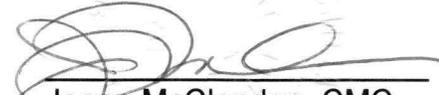
**ABSTAIN: 0**

APPROVED:



Waseem Ahmed, Mayor

ATTEST:

  
Joann McClendon, CMC  
City Clerk



September 4, 2020

Tom Richards, Vice-Chair  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento CA 95814

**RE: SUPPORT FOR CENTRAL VALLEY WYE FINAL SUPPLEMENTAL EIR/EIS**

Dear Honorable Vice-Chair Richards,

On behalf of the City of Sacramento, I write to strongly support the Governor's Plan and CHSRA's staff recommendations (2020 Draft Business Plan released February 12) to pursue a Merced-Fresno-Bakersfield HSR interim operating segment with stops at Kings/Tulare and Madera to provide high-speed rail service to Californians at the earliest possible time. The approval of the Central Valley Wye Supplemental EIR/EIS is critical to the implementation of the Merced-Fresno-Bakersfield HSR Interim Operating Segment and provides long-term benefit to Sacramento area connections to the Central Valley and South Bay HSR system.

The Authority identified the SR 152 (North) to Road 11 Wye Alternative as the Preferred Alternative because it would maximize regional transportation investments and minimize impacts on environmental and community resources. Additionally, the SR 152 (North) to Road 11 Wye Alternative would have lower capital costs than the other Central Valley Wye alternatives.

The Preferred Alternative achieves the HSR system's purpose and need while resulting in fewer impacts on both the natural environment and community resources than the other three alternatives. It also better meets other non-environmental criteria because of its proximity to existing transportation corridors. Both USACE and USEPA concurred that the CHSRA's Preferred Alternative is the preliminary least environmentally damaging practicable alternative. The Preferred Alternative is the environmentally superior alternative that best meets environmental regulatory requirements and best minimizes impacts on the natural environment and community resources.

The City of Sacramento requests that CHSRA continue to work with Madera County to resolve the issues raised in their comment letter on the Central Valley Wye Supplemental EIR/EIS. The City of Sacramento has led commitments of regional transit investments that will support expanded passenger service from Sacramento to the Central Valley via the San Joaquins and Altamont Corridor Express services that were funded with \$500.5M in the 2018 TIRCP grant. These improvements are an early investment in a system that is planned to reach farther north into Yuba County serve points north of Sacramento and provide access to HSR at Merced. The connection to Merced, however, requires the construction of the Central Valley WYE. Additionally, the WYE will also provide Sacramento region and northern counties additional connections to the South Bay. As the mobility hub of the northern state region, Sacramento is pleased to submit this letter of support for the approval of the Central Valley Wye Final Supplemental EIR/EIS.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jay Schenirer', with a long horizontal flourish extending to the right.

Jay Schenirer, Chair  
Law and Legislation Committee

cc: Brian Kelly, CEO  
Brian Annis, CFO  
Chad Edison, CalSTA



August 27, 2020

Tom Richards, Vice-Chair  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento CA 95814

**RE: Support for Central Valley Wye Final Supplemental EIR/EIS**

Dear Honorable Vice-Chair Richards:

The Central Valley Rail Working Group (CVRWG) includes all the regional transportation planning agencies, regional rail operators, and major cities in the Sacramento to Merced Corridor. CVRWG has been a very good partner in the development of the high-speed rail project. Our 20-agency working group has been involved in the coordinated planning for passenger rail service between Sacramento and Merced since 2006. CVRWG appreciates the opportunity to comment on the Central Valley Wye Supplemental EIR/EIS. CVRWG looks forward to continuing to work with CHSRA to implement a coordinated, complementary, and integrated intercity rail network which will help California's economy and will enable our State to grow in a more sustainable manner which protects the environment.

CVRWG strongly supports the Governor's Plan and CHSRA's staff recommendations (2020 Draft Business Plan released February 12, 2020) to pursue a Merced-Fresno-Bakersfield HSR interim operating segment with stops at Kings/Tulare and Madera to provide high-speed rail service to Californians at the earliest possible time. The approval of the Central Valley Wye Supplemental EIR/EIS is critical to the implementation of the Merced-Fresno-Bakersfield HSR Interim Operating Segment.

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CVRWG is very pleased to submit this letter of support for the approval of the Central Valley Wye Final Supplemental EIR/EIS, but does request that CHSRA continue to work with Madera County to resolve the issues raised in their comment letter on the Central Valley Wye Supplemental EIR/EIS.

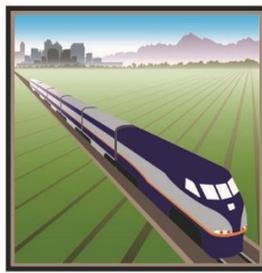
Sincerely,

Tony Boren  
Executive Director

City of Clovis  
City of Coalinga  
City of Firebaugh  
City of Fowler  
City of Fresno  
City of Huron  
City of Kerman  
City of Kingsburg  
City of Mendota  
City of Orange Cove  
City of Parlier  
City of Reedley  
City of San Joaquin  
City of Sanger  
City of Selma  
County of Fresno

cc: Brian Kelly, CEO; Brian Annis, CFO; Chad Edison, CalSTA

Supervisor **Vito Chiesa**, Chair, Stanislaus County  
Councilmember **Patrick Hume**, Vice-Chair, City of Elk Grove  
Supervisor **Scott Haggerty**, Vice-Chair, Alameda County  
Councilmember **Kevin Romick**, City of Oakley  
Supervisor **Rodrigo Espinoza**, Merced County  
Supervisor **Bob Elliott**, San Joaquin County  
Supervisor **Doug Verboon**, Kings County  
Supervisor **Brett Frazier**, Madera County  
Supervisor **Sal Quintero**, Fresno County  
Supervisor **Amy Shuklian**, Tulare County



## **San Joaquin Joint Powers Authority**

Alternate **Richard O'Brien**, City of Riverbank  
Alternate **Don Nottoli**, Sacramento County  
Alternate **Melissa Hernandez**, City of Dublin  
Alternate **David Hudson**, City of San Ramon  
Alternate **Daron McDaniel**, Merced County  
Alternate **Doug Kuhne**, City of Lodi  
Alternate **Martin Devine**, City of Hanford  
Alternate **Andrew Medellin**, City of Madera  
Alternate **Rey Leon**, City of Huron  
Alternate **Bob Link**, City of Visalia

September 1, 2020

Tom Richards, Vice-Chair  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento CA 95814

### **RE: Support for Central Valley Wye Final Supplemental EIR/EIS**

Dear Honorable Vice-Chair Richards,

The San Joaquin Joint Powers Authority strongly supports the Governor's Plan and CHSRA's staff recommendations (2020 Draft Business Plan released February 12) to pursue a Merced-Fresno-Bakersfield HSR interim operating segment with stops at Kings/Tulare and Madera to provide high-speed rail service to Californians at the earliest possible time. The approval of the Central Valley Wye Supplemental EIR/EIS is critical to the implementation of the Merced-Fresno-Bakersfield HSR Interim Operating Segment.

The Authority identified the SR 152 (North) to Road 11 Wye Alternative as the Preferred Alternative because it would maximize regional transportation investments and minimize impacts on environmental and community resources. Additionally, the SR 152 (North) to Road 11 Wye Alternative would have lower capital costs than the other Central Valley Wye alternatives.

The Preferred Alternative achieves the HSR system's purpose and need while resulting in fewer impacts on both the natural environment and community resources than the other three alternatives. It also better meets other non-environmental criteria because of its proximity to existing transportation corridors. Both USACE and USEPA concurred that the CHSRA's Preferred Alternative is the preliminary least environmentally damaging practicable alternative. The Preferred Alternative is the environmentally superior alternative that best meets environmental regulatory requirements and best minimizes impacts on the natural environment and community resources.

The San Joaquin Joint Powers Authority requests that CHSRA continue to work with Madera County to resolve the issues raised in their comment letter on the Central Valley Wye Supplemental EIR/EIS.

#### MEMBER AGENCIES

Alameda County - Contra Costa County Transportation Authority - Fresno Council of Governments - Kings County Association of Governments - Madera County Transportation Commission  
Merced County Association of Governments - Sacramento Regional Transit - San Joaquin Regional Rail Commission - Stanislaus Council of Governments - Tulare County Association of Governments

The San Joaquin Joint Powers Authority is very pleased to submit this letter of support for the approval of the Central Valley Wye Final Supplemental EIR/EIS.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vito Chiesa".

Vito Chiesa  
SJJPA Chair

cc Brian Kelly, CEO; Brian Annis, CFO; Chad Edison, CalSTA  
August 25, 2020

# CENTRAL VALLEY RAIL WORKING GROUP

County of Sacramento

City of Sacramento

City of Elk Grove

City of Galt

Sacramento Area  
Council of Governments

Sacramento Regional  
Transit District

County of San Joaquin

City of Lodi

City of Stockton

City of Manteca

San Joaquin  
Council of Governments

San Joaquin Regional  
Rail Commission

San Joaquin  
Regional Transit District

County of Stanislaus

City of Modesto

City of Turlock

Stanislaus  
Council of Governments

County of Merced

City of Merced

Merced County  
Association of Governments

*Member Agencies  
in a  
Memorandum of  
Understanding*

September 3, 2020

Tom Richards, Vice-Chair  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento CA 95814

## **RE: Support for Central Valley Wye Final Supplemental EIR/EIS**

Dear Honorable Vice-Chair Richards,

The Central Valley Rail Working Group (CVRWG) includes all the regional transportation planning agencies, regional rail operators, and major cities in the Sacramento to Merced Corridor. CVRWG has been a very good partner in the development of the high-speed rail project. Our 20-agency working group has been involved in the coordinated planning for passenger rail service between Sacramento and Merced since 2006. CVRWG appreciates the opportunity to comment on the Central Valley Wye Supplemental EIR/EIS. CVRWG looks forward to continuing to work with CHSRA to implement a coordinated, complementary, and integrated intercity rail network which will help California's economy and will enable our State to grow in a more sustainable manner which protects the environment.

CVRWG strongly supports the Governor's Plan and CHSRA's staff recommendations (2020 Draft Business Plan released February 12, 2020) to pursue a Merced-Fresno-Bakersfield HSR interim operating segment with stops at Kings/Tulare and Madera to provide high-speed rail service to Californians at the earliest possible time. The approval of the Central Valley Wye Supplemental EIR/EIS is critical to the implementation of the Merced-Fresno-Bakersfield HSR Interim Operating Segment.

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CVRWG is very pleased to submit this letter of support for the approval of the Central Valley Wye Final Supplemental EIR/EIS, but does request that CHSRA continue to work with Madera County to resolve the issues raised in their comment letter on the Central Valley Wye Supplemental EIR/EIS.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vito Chiesa".

Vito Chiesa

Stanislaus County Board of Supervisors

On behalf of the Central Valley Rail Working Group

cc Brian Kelly, CEO; Brian Annis, CFO; Chad Edison, CalSTA

September 8, 2020

Tom Richards, Vice-Chair  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento CA 95814

RE: Support for Central Valley Wye Final Supplemental EIR/EIS

Dear Honorable Vice-Chair Richards,

On behalf of the Sacramento Regional Rail Working Group (SRRWG), I am pleased to submit this letter of support for the Governor's Plan and the CHSRA's staff recommendations (2020 Draft Business Plan released February 12, 2020) to pursue a Merced-Fresno-Bakersfield HSR interim operating segment with stops at Kings/Tulare and Madera to provide high-speed rail service to Californians at the earliest possible time. The approval of the Central Valley Wye Supplemental EIR/EIS is critical to the implementation of the Merced-Fresno-Bakersfield HSR Interim Operating Segment.

The Authority identified the SR 152 (North) to Road 11 Wye Alternative as the Preferred Alternative because it would maximize regional transportation investments and minimize impacts on environmental and community resources. Additionally, the SR 152 (North) to Road 11 Wye Alternative would have lower capital costs than the other Central Valley Wye alternatives.

The Preferred Alternative achieves the HSR system's purpose and need while resulting in fewer impacts on both the natural environment and community resources than the other three alternatives. It also better meets other non-environmental criteria because of its proximity to existing transportation corridors. Both USACE and USEPA concurred that the CHSRA's Preferred Alternative is the preliminary least environmentally damaging practicable alternative. The Preferred Alternative is the environmentally superior alternative that best meets environmental regulatory requirements and best minimizes impacts on the natural environment and community resources.

SRRWG requests that CHSRA continue to work with Madera County to resolve the issues raised in their comment letter on the Central Valley Wye Supplemental EIR/EIS.

Thank you for considering this letter of support for the approval of the Central Valley Wye Final Supplemental EIR/EIS.

Sincerely,



Steve Cohn  
Chair, Sacramento Regional Rail Working Group

CC: Brian Kelly, CEO; Brian Annis, CFO; Chad Edison, CalSTA



Chair, **Christina Fugazi**, City of Stockton  
Vice Chair, **Leo Zuber**, City of Ripon  
Commissioner, **Doug Kuehne**, City of Lodi  
Commissioner, **Debby Moorhead**, City of Manteca

Commissioner, **Bob Elliott**, San Joaquin County  
Commissioner, **Scott Haggerty**, Alameda County  
Commissioner, **John Marchand**, City of Livermore  
Commissioner, **Nancy Young**, City of Tracy

Executive Director, **Stacey Mortensen**

September 2, 2020

Tom Richards, Vice-Chair  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento CA 95814

**RE: Support for Central Valley Wye Final Supplemental EIR/EIS**

Dear Honorable Vice-Chair Richards,

The San Joaquin Regional Rail Commission strongly supports the Governor's Plan and CHSRA's staff recommendations (2020 Draft Business Plan released February 12) to pursue a Merced-Fresno-Bakersfield HSR interim operating segment with stops at Kings/Tulare and Madera to provide high-speed rail service to Californians at the earliest possible time. The approval of the Central Valley Wye Supplemental EIR/EIS is critical to the implementation of the Merced-Fresno-Bakersfield HSR Interim Operating Segment.

The Authority identified the SR 152 (North) to Road 11 Wye Alternative as the Preferred Alternative because it would maximize regional transportation investments and minimize impacts on environmental and community resources. Additionally, the SR 152 (North) to Road 11 Wye Alternative would have lower capital costs than the other Central Valley Wye alternatives.

The Preferred Alternative achieves the HSR system's purpose and need while resulting in fewer impacts on both the natural environment and community resources than the other three alternatives. It also better meets other non-environmental criteria because of its proximity to existing transportation corridors. Both USACE and USEPA concurred that the CHSRA's Preferred Alternative is the preliminary least environmentally damaging practicable alternative. The Preferred Alternative is the environmentally superior alternative that best meets environmental regulatory requirements and best minimizes impacts on the natural environment and community resources.

The San Joaquin Regional Rail Commission requests that CHSRA continue to work with Madera County to resolve the issues raised in their comment letter on the Central Valley Wye Supplemental EIR/EIS.

The San Joaquin Regional Rail Commission is very pleased to submit this letter of support for the approval of the Central Valley Wye Final Supplemental EIR/EIS.

Sincerely,



Stacey Mortensen  
Executive Director

cc Brian Kelly, CEO; Brian Annis, CFO; Chad Edison, CalSTA August 26, 2020

September 9, 2020

**Via Email on September 9, 2020**

California High Speed Rail Authority  
Board of Directors  
770 L Street, Suite 620 MS-1  
Sacramento, CA 95814  
[boardmembers@hsr.ca.gov](mailto:boardmembers@hsr.ca.gov)

**Re: Comments on August 2020 Merced to Fresno Section Central Valley Wye  
Final Supplemental Environmental Impact Report/Environmental Impact  
Statement  
Board Meeting – September 10, 2020 at 10:00 a.m., Sacramento, California**

Dear Members of the California High-Speed Rail Authority Board of Directors:

The purpose of this correspondence is to provide input regarding the adequacy of the August 2020 “Merced to Fresno Section: Central Valley Wye Final Supplemental Environmental Impact Report/Environmental Impact Statement” (“Final SEIR/EIS”) and its compliance with the requirements of the California Environmental Quality Act (“CEQA”) and the National Environmental Policy Act (“NEPA”).<sup>1</sup> Such compliance is required prior to the California High-Speed Rail Authority (“CHSRA”) Board of Directors’ approval decisions associated with the Central Valley Wye component of California High-Speed Rail Project (“HSR”).

This letter is submitted on behalf of Madera County in its capacity as representative of the WYE Madera County Task Force (“Task Force”). The Task Force is a collaborative of agencies in Madera County with common interests pertaining to the HSR. The Task Force is comprised of the following legal entities:

- County of Madera;
- City of Chowchilla;

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<sup>1</sup> Cal. Pub. Res. Code § 21177; 5 U.S.C., § 70.

- City of Madera;
- Madera County Transportation Commission;
- Madera Unified School District;
- Workforce Development Board of Madera County; and
- Madera County Economic Development Commission.

The Task Force agencies have a constituency of over 150,000 people in Madera County and the cities of Chowchilla and Madera, and over 8,000 businesses within the County. The comments herein reflect the Task Force agencies' legitimate governmental and community environmental, social and economic concerns. Construction and operation of HSR and, in particular, the Central Valley Wye component of HSR, in Madera County will have direct environmental, social, and economic effects on residents and businesses in the County. The development of HSR in Madera County will also increase the obligations and need for local land use planning agency actions while reducing the resources (e.g., tax revenue) available to provide such services. Thus, Task Force member agencies and their constituents will be directly affected by decisions of the CHSRA and its Board of Directors.

Furthermore, Task Force land use planning agencies, including Madera County and the cities of Chowchilla and Madera, will have to make discretionary decisions associated with HSR for the execution of right-of-way and maintenance agreements, issuance of encroachment permits, and other approvals and actions associated with HSR development. Therefore, these agencies are "responsible agencies" under CEQA. Thus, Task Force input must be addressed by CHSRA in order to produce an adequate document that can be used by local agencies in complying with CEQA for their discretionary decisions associated with the HSR.

## **A. INTRODUCTION**

The Task Force provided comments on the Draft SEIR/EIS when circulated for review as a CEQA document in May and June of 2019 (Task Force June 20, 2019 letter identified in the Final SEIR/EIS as letter number 245) and when circulated for review as a NEPA document in September and October 2019 (Abbott & Kindermann, Inc., October 28, 2019 letter identified in the Final SEIR/EIS as letter number 290). This correspondence repeats and incorporates by reference herein the Task Force's June 20, 2019 letter and the Abbott & Kindermann October 28,

2019 letter in their entirety. Furthermore, the Task Force concurs with the comments and concerns expressed in the September 8, 2020 letter to CHSRA from Mr. James Sanchez of Lozano Smith on behalf of the City of Chowchilla.

The Final SEIR/EIS (i) fails to adequately evaluate and provide good faith reasoned responses to substantive environmental issues raised in the Task Force comments on the Draft EIR/EIS as required by CEQA Guidelines Section 15088<sup>2</sup> and as required by NEPA in Section 1503.4 (a)<sup>3</sup>; and (ii) fails to provide good faith reasoned responses to feasible mitigation measures proposed by the Task Force to address identified significant impacts.<sup>4</sup>

Section B of this letter provides legal arguments pertaining to the adequacy of the Final SEIR/EIS and is organized as follows:

- I.** The Final SEIR/EIS Fails to Adequately Evaluate and Provide Good Faith Reasoned Responses to Substantive Environmental Issues Raised in the Task Force Comments on the Draft SEIR/EIS as Required by CEQA Guidelines Section 15088
  - (a) The Final SEIR/EIS Analysis and Stated Benefits Fail to Reflect Current Uncertainties Regarding the Completion and Timing of the HSR Statewide System
  - (b) The Final SEIR/EIS Relies on Speculative Mitigation Measures to Address Environmental Justice Impacts
  - (c) The Final SEIR/EIS Fails to Adequately Disclose, Analyze and Mitigate Impacts
- II.** The Final SEIR/EIS Fails to Provide Good Faith Reasoned Responses to Feasible Mitigation Measures to Address Identified Significant Impacts

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<sup>2</sup> Cal. Code Regs. tit. 14 § 15088(c); and see *Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4<sup>th</sup> 603; *City of Long Beach v. LAUSD* (2009) 176 Cal.App.4<sup>th</sup> 889; *Banning Ranch Conservancy v. City of Newport* (2017) 2 Cal.5<sup>th</sup> 918.

<sup>3</sup> 40 C.F.R. § 1503.4

<sup>4</sup> *Russell Covington v. Great Basin Unified Air Pollution Control Dist., et al.*, (2019) 43 Cal.App.5<sup>th</sup> 867

## **B. LEGAL ARGUMENTS**

### **I. The Final SEIR/EIS Fails to Adequately Evaluate and Provide Good Faith Reasoned Responses to Substantive Environmental Issues Raised in the Task Force Comments on the Draft SEIR/EIS as Required by CEQA Guidelines Section 15088**

In its Final SEIR/EIS, CHSRA has failed to adequately evaluate and provide good faith reasoned responses to substantive environmental issues raised in the Task Force comments on the Draft SEIR/EIS. This level of response required by CEQA is enunciated in Guidelines Section 15088, which provides: “The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the Lead Agency’s position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.”<sup>5</sup> Pursuant to NEPA at Section 1503.4, an agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by modifying alternatives, supplementing, improving or modifying its analysis, making factual corrections or explaining why the comments do not warrant further agency response.<sup>6</sup> The following discussion addresses three key categories where adequate responses are lacking in the Final SEIR/EIS. These are not inclusive however, and as noted, the prior comment letters from the Task Force have been

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<sup>5</sup> Cal. Code Regs. tit. 14, § 15088(c).

<sup>6</sup> 40 C.F.R. § 1503.4

incorporated by reference to support the conclusion of the Task Force that the Final SEIR/EIS remains legally inadequate.

**(a) The Final SEIR/EIS Analysis and Stated Benefits Fail to Reflect Current Uncertainties Regarding the Completion and Timing of the HSR Statewide System**

The Final SEIR/EIS does not sufficiently account for changed circumstances that have occurred since the Tier 1 environmental documents were approved in 2005 and since the Merced to Fresno Final EIR/EIS was certified in 2012. Task Force and other comments on the Draft SEIR/EIS provide and reference substantial evidence that significant differences in the funding sources, timeframe, and operational projections (e.g., ridership, revenues, areas served, etc.) are currently anticipated as compared to projections in 2005 and 2012. The Final SEIR/EIS fails to meaningfully address the changed circumstances and, as a result, improperly ascribes projected future benefits of a statewide HSR system as a reason that certain adverse impacts should be tolerated or would be mitigated as a result of such future benefits.

The Final SEIR/EIS acknowledges substantial uncertainties in statewide HSR system funding and even contemplates staged construction of the Central Valley Wye beginning with a north-south connection (e.g., “CVY-Response General-5” [Section 17.1.5], Response 245-136 [pg. 22-85], etc.). Yet the Final EIR/EIS continues to rely on assumptions that the benefits of a statewide system will be realized. Such optimism is expressed in the Final SEIR/EIS conclusions, as well as in the draft CEQA Findings and draft NEPA Record of Decision.

These unrealistic benefits provide a faulty basis for supporting the Final SEIR/EIS conclusions that the adverse environmental and socioeconomic impacts of the Central Valley Wye would be mitigated or should be deemed acceptable by the CHSRA Board of Directors. Instead, the analysis and conclusions in the Final SEIR/EIS must be based on current and realistic projections of future scenarios for HSR. Similarly, the Board of Director’s CEQA

Findings and Record of Decision, as well as any subsequent Central Valley Wye approvals, must be based on current and realistic projections.

An example of the unrealistic optimism in the Final SEIR/EIS is found at Response 245-136. The response concludes that ridership forecasts between the limited two-year period of 2016 to 2018 is reduced by over 10 percent and acknowledges that even greater reductions in ridership forecasts are anticipated in the Draft 2020 Business Plan. Yet, these reductions in projected ridership are identified by CHSRA as “modest” and do not account for prior reductions in ridership forecasts between 2005 and 2016. A comparison of ridership forecasts from 2005 is not provided in the Final SEIR/EIS, nor does the Final SEIR/EIS provide a meaningful analysis of the ultimate concern: changes in environmental outcomes (reduced environmental benefits and reduced impact mitigation) as compared to the projections in the 2005 Program EIR/EIS or the 2012 Merced to Fresno EIR/EIS.

Further exacerbating this deficiency, the Final SEIR/EIS improperly assumes that delayed development of the statewide system would commensurately delay adverse impacts. However, this is not the case for the Madera County communities that will be directly impacted by construction of the Central Valley Wye. In fact, the majority of impacts associated with construction and the presence of Central Valley Wye facilities will occur regardless of whether the facilities are used for HSR operations.

Demonstrating the failure of the Final SEIR/EIS to recognize these circumstances are the following (emphasis added in bold text):

- Response 245-136 states, “***To the extent that the lower ridership levels projected in the 2018 Business Plan or the Draft 2020 Business Plan would result in fewer trains operating in 2040, the impacts associated with train operations in 2040 (HSR operational train noise) would be somewhat less than the impacts presented in this Draft EIR/EIS, and the benefits accruing to the project (e.g., reduced VMT, reduced GHG emissions, reduced energy consumption) would also be less than the benefits presented in this Draft EIR/EIS. Like the impact, the***

*benefits would continue to build and accrue over time and would eventually reach the levels discussed in this Draft EIR/EIS for the Phase 1 system.”*

- Response 290-669 states in part, ***“If it takes longer for the Phase 1 system to be funded, construction, and operational, the level of operations-related impacts described in the EIR/EIS will occur later in time. Put another way, the impacts and benefits of HSR in the horizon year of 2040 may be less than described in the Supplemental EIR/EIS.”***
- Response 290-757 states in part that the FSEIR/EIS “evaluates operations-related economic impacts...assumed for the Central Valley Wye as part of the overall statewide system” and that ***“the adverse operational period effects [] would likely be incrementally lower for a smaller initial operating system. The full extent of economic benefits and adverse effects would likely not be realized until the statewide system extends into the San Francisco Bay Area and the Los Angeles Basin.”***
- Section 2.3 adds the following text in the FSEIR/EIS, ***“Although the analyses in Sections 3.3, 3.4, and 3.6 are based on the higher ridership numbers presented in the Draft 2020 Business Plan relative to the 2016 Business Plan, the adverse impacts associated with fewer train operations in 2040 would be less than those presented in Section 3.2, Transportation (e.g., reduced noise from train passbys). Project benefits described in Sections 3.3 and 3.6 would also be lower (e.g., benefits that would have been realized from fewer vehicle miles traveled, reduced greenhouse gas emissions, less energy consumed for transportation).”***

These statements are incorrect and result in erroneous conclusions in the Final EIR/EIS.

With the exception of direct impacts associated with HSR train noise, nearly all of the other adverse impacts associated with development of the Central Valley Wye will occur regardless of whether the HSR system is operated, or the number of HSR trains that use the system, or whether the statewide system is ultimately developed.

Construction and long-term permanent impacts associated with the Central Valley Wye including, but not limited to, land disturbance, air pollutant emissions, temporary and permanent

road closures, effects on visual character, effects on community cohesion and disadvantaged communities, loss of agricultural lands and productivity, loss of property tax revenues, and other adverse impacts of the Central Valley Wye are not incrementally influenced by the number of trains using the system or the completion of the statewide HSR system. Consequently, these adverse impacts will occur to the same degree regardless of whether the HSR Central Valley Wye facilities are actually put into use.

In our comments on the Draft SEIR/EIS, we noted that Impact SO#1 discusses temporary impacts on communities and community cohesion and concludes that “*access would continue to be provided for all residences and businesses.*” The Task Force commented that HSR construction would result in displacement of residences and businesses, and there was no acknowledgment of this impact in the Draft SEIR/EIS . In responding to this comment in the Final SEIR/EIS, CHSRA states, “*The commenter observes that where a residence or business will be relocated, it is unclear to what extent, during construction, "continued access" will be maintained for such a residence or business (that is being relocated). As a logical matter, if a residence or business has been relocated, that residence or business no longer has a need for continued access to the prior location.*” (Final SEIR/EIS Response 290-758) We concur that continued access would not have to be provided to displaced residents and businesses. The response however, misses the point of the comment. The Draft SEIR/EIS failed to acknowledge that it is the *construction* of the HSR, not merely some future date of *operation* of the HSR, that will cause the impact of permanent displacement of residents and businesses. By failing to meaningfully respond to this comment, the Final SEIR/EIS fails to fully disclose and address socioeconomic and environmental justice impacts, and obscures permanent socioeconomic and environmental justice impacts that will occur as a result of HSR construction, regardless of future HSR operations.

The Final SEIR/EIS Section 2.3 statement that “*Project benefits...would also be lower,*” obscures the fact that the benefits of the HSR statewide system will not just be lower, they will not be realized at all if the statewide system is not completed. Yet, the adverse impacts of construction will affect Madera County residents and the permanent adverse impacts of the

presence of HSR facilities will be permanently borne by residents, business owners, landowners, and taxpayers of Madera County.

The continued assumption that the statewide HSR system will be completed within the previously projected timeframe and that the anticipated statewide benefits of HSR will accrue to Madera County businesses and residents, is unreasonably optimistic, is inconsistent with current circumstances and projections for HSR operation and is a finding lacking in any supporting evidence. The Final SEIR/EIS must be revised to properly characterize the substantial impacts and limited benefits anticipated for Madera County based on current projections and reasonably foreseeable outcomes.

**(b) The Final SEIR/EIS Relies on Speculative Mitigation Measures to Address Environmental Justice Impacts**

The Final EIR/EIS includes two mitigation measures (EJ-MM#1 and EJ-MM#2) intended to address environmental justice and community cohesion impacts of the Central Valley Wye on the disadvantaged community of Fairmead. These mitigation measures require expenditures and actions by the County of Madera and the City of Chowchilla. Comments on the Draft SEIR/EIS noted that the Draft SEIR/EIS failed to provide a nexus between the environmental justice and community cohesion impacts and the intended outcomes of mitigation measures EJ-MM#1 and EJ-MM#2. Comments also identified substantial deficiencies in the implementation process and feasibility of these measures as presented in the Draft SEIR/EIS. In response to those comments, the Final SEIR/EIS revises both mitigation measures EJ-MM#1 and EJ-MM#2. The revised mitigation is equally deficient because it results in the same or even greater speculation and uncertainty regarding the implementation and efficacy of these measures in addressing community cohesion and environmental justice impacts.

Final EIR/EIS mitigation measure EJ-MM#1 requires that Madera County construct a community center in Fairmead. The measure is identified in the Final EIR/EIS as necessary to reduce environmental justice and community cohesion impacts of the Central Valley Wye on the community of Fairmead. The measure contains several specific criteria and siting restrictions for a community center, yet the Final EIR/EIS does not identify a site within the community of

Fairmead that meets the siting criteria and restrictions of the measure. Furthermore, although the measure identifies that CHSRA would fund the construction of the community center, the measure defers identification of funding mechanisms for community center operation, maintenance, and insurance to some future time. The measure does not commit CHSRA to such funding. Notwithstanding the many uncertainties regarding whether mitigation measure EJ-MM#1 can be feasibly implemented, the Final EIR/EIS concludes that “*the community center will provide residents a permanent meeting place for community gatherings and events*” and, “*in concert with EJ-MM#2 will reduce the adverse impacts on community cohesion from construction of the Preferred Alternative.*”

Final EIR/EIS mitigation measure EJ-MM#2 specifies that water and sewer service connections to the community of Fairmead will be provided by Madera County and the City of Chowchilla, respectively. The measure states that CHSRA will work with the County and City to aid these agencies in securing grant funding for these facilities; but the measure does not provide a mechanism to fully fund the systems, nor does the Final SEIR/EIS assess the feasibility of such systems. Nevertheless, the Final EIR/EIS concludes that, in concert with EJ-MM#1, mitigation measure EJ-MM#2 would reduce impacts on community cohesion from the construction of the Preferred Alternative.

While mitigation measures EJ-MM#1 and EJ-MM#2 have worthy aims, the measures lack performance standards to ensure they can be feasibly implemented and achieve the intended consequences/benefits to the Fairmead community. In the absence of definitive agreements between CHSRA and the responsible agencies of Madera County and the City of Chowchilla, there is no assurance that these measures can and will be implemented.

While Task Force member agencies are supportive of the concept of a community center and connections to water and sewer service for the community of Fairmead, the specific components, funding requirements (both for construction and long-term operation), agency obligations, and other performance standards must be identified to determine whether there is reasonable certainty that such facilities can and will be developed. Without such certainty, the Final SEIR/EIS cannot conclude that these mitigation measures will avoid or reduce the

environmental justice and community cohesion impacts of the Central Valley Wye on the community of Fairmead.

**(c) The Final SEIR/EIS Fails to Adequately Disclose, Analyze and Mitigate Impacts**

Comments on the Draft SEIR/EIS as presented in Abbott & Kindermann's October 28, 2019 comment letter identified several instances in which the Draft SEIR/EIS failed to adequately disclose, analyze, and mitigate impacts associated with the Central Valley Wye. We have reviewed CHSRA's responses to comments as presented in the Final EIR/EIS, and conclude that the Final EIR/EIS fails to meaningfully respond to these issues and that, therefore, the Final EIR/EIS also fails to adequately disclose, analyze and mitigate impacts of the Central Valley Wye. Abbott & Kindermann's October 28, 2019 has been incorporated herein by reference and we summarize the following inadequacies of the Final EIR/EIR in disclosing, analyzing, and mitigating environmental, socioeconomic, community, and environmental justice impacts:

- Impact avoidance and minimization features are improperly assumed in the analysis
- The Final SEIR/EIS fails to provide legally adequate mitigation measures
- The Final SEIR/EIS fails to properly analyze and mitigate traffic and circulation impacts
- The Final SEIR/EIS fails to properly analyze and mitigate agricultural resources impacts
- The Final SEIR/EIS fails to properly analyze and mitigate air quality impacts
- The Final SEIR/EIS fails to properly analyze and mitigate greenhouse gas ("GHG") emissions
- The Final SEIR/EIS fails to properly analyze and mitigate noise and vibration impacts
- The Final SEIR/EIS fails to fully address land use conflicts and land use plan inconsistencies
- The Final SEIR/EIS fails to fully evaluate and mitigate for land use plan inconsistencies
- The Final SEIR/EIS fails to sufficiently identify land use incompatibilities or provide a mechanism for local land use plan and zoning updates to accommodate HSR

- The Final SEIR/EIS fails to fully evaluate and mitigate aesthetic and visual resources
- The Final SEIR/EIS fails to disclose and mitigate significant effects associated with emergency response services
- The Final SEIR/EIS fails to properly address long-term socioeconomic impacts in Madera County
- The Final SEIR/EIS socioeconomic analysis is flawed in its assumptions regarding the benefits given uncertainties associated with development of a statewide HSR system
- The Final SEIR/EIS fails to fully disclose community impacts and relies on insufficient measures to reduce such impacts
- The Final SEIR/EIS relies on insufficient measures to reduce displacement and relocation impacts on community cohesion
- The Final SEIR/EIS fails to fully disclose and address environmental justice impacts
- The Final SEIR/EIS improperly concludes that HSR will result in disproportionate benefits to disadvantaged communities
- The Final SEIR/EIS environmental justice analysis relies on speculative mitigation measures in its conclusion that environmental justice impacts would be less than significant
- The Final SEIR/EIS fails to provide a legally adequate cumulative impacts analysis
- The Final SEIR/EIS fails to consider and evaluate alternatives that would avoid or reduce impacts of the project

## **II. The Final SEIR/EIS Fails to Provide Good Faith Reasoned Responses to Feasible Mitigation Measures to Address Identified Significant Impacts**

Task Force comments on the Draft SEIR/EIS noted deficiencies in mitigation measures and Impact Avoidance and Minimization Features (IAMFs). Mitigation Measures in the Draft SEIR/EIS did not provide sufficient detail regarding implementation requirements or performance standards, and this deficiency is carried forward to the Final SEIR/EIS. We provide

examples above regarding mitigation measures MM-EJ#1 and MM-EJ#2, but our comments on the Draft SEIR/EIS identify numerous impact areas in which the necessary impact disclosure was omitted and the identification of concrete, enforceable mitigation measures is improperly deferred. The Final SEIR/EIS fails to meaningfully respond to our comments on the Draft SEIR/EIS and, therefore, fails to provide legally adequate mitigation measures. Furthermore, Task Force comments on the Draft SEIR/EIS noted the failure of the Draft SEIR/EIS to evaluate impacts in the absence of IAMFs and advised that several of the IAMFs would be ineffective and avoiding or reducing impacts of the Central Valley Wye. Attachment A of our October 28, 2019 comment letter provided specific requested revisions to certain IAMFs pertaining to Aesthetics, Agriculture, and Transportation impacts that would ensure these IAMFs sufficiently define implementation responsibilities, provide opportunities for local agency input and approval, and establish clear requirements and performance standards. CHSRA has rejected these recommendations and has failed to provide reasoned responses or any evidence of the potential infeasibility of implementing the suggested mitigation measures. CHSRA also has failed to make meaningful revisions to IAMFs or mitigation measures to ensure their effective mitigation. For these reasons, the Final SEIR/EIS fails to provide sufficient mitigation for impacts of the Central Valley Wye and improperly concludes that impacts will be avoided or reduced with IAMFs and mitigation measures as presented in this Final SEIR/EIS.

### **C. CONCLUSION**

The Final SEIR/EIS is legally inadequate for the reasons expressed herein. To ensure impacts of the Central Valley Wye are fully disclosed and that mitigation measures to avoid or reduce significant impacts to the extent feasible are considered in compliance with CEQA and NEPA, CHSRA must revise the SEIR/EIS to more thoroughly consider and address the issues raised in comments on the Draft SEIR/EIS and the additional comments in this present letter.

For these reasons, the Task Force objects to the Central Valley Wye proposed project/preferred alternative as well as each of the alternatives as described and evaluated in the August 2020 Final SEIR/EIS, and the Task Force urges the Board of Directors to decline

certification of the Final SEIR/EIS and decline to approve any of the subsequent actions recommended in the September 10, 2020 Staff Briefing.

Very truly yours,

A handwritten signature in black ink, reading "Diane Kindermann Henderson". The signature is written in a cursive style with a large initial "D" and a stylized "H" at the end.

Diane Kindermann Henderson

cc: Brian Kelly, CHSRA Chief Executive Officer  
Wye Madera County Task Force Member Agencies

## BOARD MEETING MATERIALS - VISUAL SIMULATION IMAGE

